

BOARD BILL NO. 332 INTRODUCED BY ALDERMAN CRAIG SCHMID, PRESIDENT LEWIS REED, ALDERMAN CHRIS CARTER, ALDERWOMAN CAROL HOWARD, ALDERWOMAN JENNIFER FLORIDA, ALDERWOMAN SHARON TYUS, ALDERWOMAN CHRISTINE INGRASSIA, ALDERMAN JOSEPH VACCARO, ALDERMAN SCOTT OGILVIE, ALDERMAN JEFFREY BOYD

1 An Ordinance relating to the identification of High Merit historic properties in the
2 City of St. Louis that are undergoing Demolition By Neglect providing procedures for the
3 designation of such properties; and for the prosecution of owners and persons in control
4 of such properties, promoting stabilization and restoration of such properties to the
5 benefit of the City of St. Louis and its residents; containing definitions, penalties and a
6 Severability Clause.

7 WHEREAS, preservation of the City’s natural, architectural and cultural heritage
8 is beneficial to the City and its residents; and

9 WHEREAS, the City of St. Louis has a stock of well-designed and useful
10 buildings of various types that are constructed of high-quality, long-lasting materials and
11 represent local variations of architectural styles that can continue to serve, or be placed
12 back in service if maintained; and

13 WHEREAS, this building stock imparts a distinct and distinguished appearance to
14 St. Louis which is of benefit to residents and attractive to visitors; and

15 WHEREAS, rehabilitation and reuse of buildings in St. Louis has often proved to
16 be economically feasible and profitable; and

17 WHEREAS, deteriorating buildings contribute to a degradation of property values
18 of adjacent properties and pose dangers to existing communities;

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1 WHEREAS, intervention when a property is in the first stage of neglect avoids
2 subsequent, continuing and substantial expenses for repair and stabilization by the current
3 or subsequent owner, and therefore is economically prudent and rational;

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1 WHEREAS, the ownership of historic properties entails meeting the City
2 Building Maintenance Standards as set forth in the Revised Code of the City of St. Louis;
3 and

4 WHEREAS, Demolition by Neglect has been identified as a situation in which a
5 property owner, or others having legal possession, custody or control of a property, allow
6 the condition of property to suffer such deterioration, potentially beyond the point of
7 repair, as to threaten the structural integrity of the building or its relevant architectural
8 elements, to a degree that the building and its character may potentially be lost;

9 WHEREAS, the deterioration and threat of loss of a High Merit historic property,
10 through Demolition by Neglect would constitute a notable loss of the City's architectural
11 and cultural heritage;

12 WHEREAS, A Demolition by Neglect finding for a High Merit property
13 accompanied by a plan for the remedy of the situation, would be an effective tool for the
14 avoidance of the loss of significant historic properties within the City of St. Louis; and

15 WHEREAS, the Cultural Resources Office of the City of St. Louis, which has
16 many related duties, has the expertise to bring such properties as should be protected
17 from Demolition by Neglect to the attention of the Building Division Commissioner; and

18 WHEREAS, this Board of Alderman hereby finds that passage of this Ordinance
19 is in the best interest of the City of St. Louis in order to protect the High Merit historic
20 properties of the built environment for the reasons of sustainability and maintaining a
21 high-quality place to live and work for current and future generations, and that the
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1 benefits to the public will be substantial through the establishment of a Demolition By
2 Neglect Ordinance.

3 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

4 **SECTION ONE.** Demolition By Neglect Established.

5 There is hereby established procedures and requirements for the repair and
6 stabilization of historic buildings considered High Merit as defined in Ordinance #64689,
7 which states that “High Merit” means contributing as a major structure to an existing or
8 potential City or National historic district or deserving of consideration for single site
9 historic or Landmark site designation. This Ordinance shall be known as the City of St.
10 Louis “Demolition By Neglect Ordinance”.

11 **SECTION TWO.** Exercise of police powers; authority.

12 The Board of Aldermen finds that there exist in the City of St. Louis High Merit
13 historic properties that are decaying and deteriorating, and which by and as a result of
14 neglect are being demolished. The Revised Code of the City of St. Louis authorizes the
15 City to exercise its authority to prevent the Demolition By Neglect of these properties.

16 **SECTION THREE.** Purpose.

17 The purpose of this Ordinance is to protect High Merit historic buildings in the
18 City of St. Louis by intervening when such building is undergoing Demolition By
19 Neglect.

20 **SECTION FOUR.** Definitions.

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1 The following words, terms and phrases, when used in this Ordinance, shall have
2 the meanings ascribed to them in this Section:

3 (a) “High Merit historic building” means a building which is contributing as a
4 major structure to an existing or potential City or National historic district or deserving of
5 consideration for single site historic or Landmark site designation;

6 (b) “Owner” means the holder of the title in fee simple and every mortgagee
7 of record;

8 (c) “Parties in interest” means all individuals, associations, and corporations
9 who have interests of record in a building and any who are in possession and/or exercise
10 control thereof.

11 **SECTION FIVE. Standards.**

12 A. The exterior features of any High Merit historic building located within
13 the City of St. Louis shall be preserved by the Owner and/or Parties in Interest, from
14 decay, deterioration and structural defects. The Owner and/or Parties in Interest shall,
15 upon written request of the City, repair such exterior features if they are found to be
16 deteriorating, or if their condition is contributing to deterioration, including, but not
17 limited to, any of the following conditions of demolition by neglect:

18 (a) Deterioration or collapse of exterior walls, foundations, or other vertical
19 support that causes leaning, sagging, splitting, listing, collapse, holes, or buckling.

20 (b) Deterioration of flooring or floor supports, roofs, or other horizontal
21 members that causes leaning, sagging, splitting, listing, collapse, holes, or buckling.

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1 (c) Deterioration of external chimneys that causes leaning, sagging, splitting,
2 listing, or buckling.

3 (d) Deterioration or crumbling of exterior plasters or mortars.

4 (e) Ineffective securing of exterior walls, roofs, and foundations, including
5 broken windows or doors against rain, snow, wind, and other conditions that promote
6 deterioration.

7 (f) Defective protection or lack of weather protection for exterior wall and
8 roof coverings, including lack of paint, or weathering due to lack of paint or other
9 protective covering.

10 (g) Loss of coping, flashing, eaves, mortar, bricks, other masonry materials
11 and other elements that expose the building to weather and the loss of materials and
12 eventual collapse.

13 (h) Deterioration of exterior stairs, porches, handrails, window and door
14 frames, cornices, entablatures, dormers, and architectural elements that cause water
15 infiltration, delamination, instability, loss of shape and form, or crumbling.

16 (i) Heaving, subsidence, or cracking of foundations, steps or sidewalks.

17 (j) Deterioration that has a detrimental effect upon the special character of the
18 district as a whole or the attributes and character of the High Merit historic building.

19 (l) Deterioration of any exterior feature so as to create or permit the creation
20 of any hazardous or unsafe conditions to life, health, or other property.

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1 B. A finding of Demolition By Neglect shall be based on one of more of the
2 following standards that indicate demolition by neglect:

3 (1) Conditions exist that indicate that the property is not being maintained
4 pursuant to St. Louis City Building Codes and/or Preservation Ordinances as codified in
5 the Revised Code of the City of St. Louis, and such conditions must be corrected to avoid
6 additional deterioration;

7 (2) Conditions exist that cause additional and continual deterioration through
8 the loss of or damage to building elements that keep water from damaging additional
9 materials and elements of the building, leading to structural deterioration, loss of exterior
10 building materials, and the loss of architectural elements;

11 (3) Conditions exist that include the loss of building components that protect
12 other elements of the building from water and weathering, therefore furthering continuing
13 deterioration;

14 (4) Conditions exist that are causing, or could soon cause, structural instability
15 in the building and therefore contribute to its overall deterioration;

16 (5) Conditions exist that are not limited to a finite element or area of the
17 building, and therefore are, or will become, contributing to the overall deterioration of the
18 building.

19 (6) The owner of the property is not ameliorating conditions that are causing
20 deterioration and instability in the building by taking steps to repair, enclose, stabilize, or
21 otherwise eliminate such conditions.

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1 **SECTION SIX.** Petition and Action Thereon.

2 A. The Director of Cultural Resources of the City of St. Louis may file a
3 Petition regarding a historic High Merit property in the City of St. Louis, listing specific
4 defects and conditions consistent with Demolition By Neglect, and requesting action
5 under the following procedures.

6 B. The Petition shall be presented by the Director of Cultural Resources to
7 the Preservation Board of the City of St. Louis. Such Petition shall be reviewed by the
8 Preservation Board, which Board shall make a determination if the Petition should be
9 filed with the Building Commissioner of the City of St. Louis.

10 C. Upon the filing of the Petition with the Building Commissioner, the
11 Building Commissioner shall review the Petition and conduct any investigation he finds
12 necessary to determine if he has a good faith belief that there exists a basis for such
13 charges that the subject building is undergoing Demolition By Neglect. At the discretion
14 of the Building Commissioner, the Commissioner or his Designee shall give written
15 Notice to the Owner and/or Parties in Interest of the subject building.

16 The Notice shall state that the Commissioner reasonably believes that the building
17 is undergoing Demolition By Neglect and shall identify the conditions which form the
18 basis of the belief.

19 Such Notice shall provide that such Party shall have thirty (30) days to abate the
20 conditions set forth in the Notice.

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1 The Notice shall also provide the Owner or Parties in Interest a reasonable
2 opportunity to meet with a representative or representatives of the City to discuss the
3 allegations in the Notice and the need for abatement measures.

4 D. Methods of Service.

5 A copy of the Notice and attached Petition shall be sent to the Owner and/or
6 Parties in Interest in one of the following ways:

7 (1) Delivery direct to Owner and/or Party in Interest;

8 (2) Mailing a copy of said Notice by regular mail, postage prepaid,
9 direct to Owner and/or Parties in Interest to such Party's place of business, known
10 residence, or the address currently recorded in the Assessor's Office of the City of St.
11 Louis;

12 (3) Publication in newspaper of general circulation in the City of St.
13 Louis;

14 (4) Posting a copy of said Notice upon the building.

15 **SECTION SEVEN. Actions.**

16 If the Owner and/or Parties in Interest fail to abate the conditions set forth on the
17 Notice, and no resolution has been reached with the City of St. Louis, the Building
18 Commissioner shall direct one or both of the following:

19 A. A Summons be sent to such Party as set forth in Section Eight of this
20 Ordinance for prosecution in the Municipal Court in the City of St. Louis;

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1 B. A Notice of Administrative Hearing may be sent to such Party as set forth
2 in Section Nine of this Ordinance for hearing before an Administrative Law Judge.
3 Service shall be as set forth in Section Six (C).

4 Nothing in this Ordinance shall preclude the City of St. Louis from taking any
5 other action available to it under the laws of the City of St. Louis and the State of
6 Missouri.

7 **SECTION EIGHT.** Summons.

8 Any Owner and/or Party in Interest who does not abate the conditions set forth in
9 the Notice within the thirty (30) day period may be issued a Summons alleging
10 Demolition By Neglect. A Defendant who is found guilty of, or pleads guilty to, such
11 offense shall be subject to a fine of not less than \$300.00 and not more than \$500.00, and
12 any other penalty available by law, including up to ninety (90) days in jail, for the first
13 offense. A Defendant who is found guilty of, or pleads guilty to, a second offense of
14 Demolition by Neglect shall be subject to a fine of not less than \$500.00, and any other
15 penalty available by law, including up to ninety (90) days in jail. Each day the conditions
16 on the Summons exist may be deemed a separate and distinct offense for which a
17 Summons may be issued.

18 **SECTION NINE.** Administrative Hearings.

19 A. Any Owner and/or Party in Interest who does not abate the conditions set
20 forth in the Notice within the thirty (30) day period may be subject to the provisions of
21 the Section. The Building Commissioner may initiate an Administrative Hearing in order

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1 to seek a finding of Demolition By Neglect, and, if so found, request an Order of
2 Abatement.

3 B. The Notice of Administrative Hearing shall be in writing and sent by First
4 Class U.S. Mail or served in person, not less than twenty (20) days prior to the date of
5 such hearing. If neither service by mail or personal delivery is possible, service shall be
6 made by publication.

7 A copy of the Notice of Administrative Hearing shall also be posted in a
8 prominent place on the building.

9 C. An attorney who appears on behalf of any Owner or Party In Interest must
10 file a written appearance with the Building Division.

11 D. The case for the City shall be presented by the City Counselor.

12 E. The Administrative Hearing Officer may grant continuances only upon a
13 finding of good cause.

14 F. All testimony shall be given under oath or affirmation.

15 G. The Administrative Hearing Officer may issue subpoenas to secure the
16 attendance and testimony of relevant witnesses and the production of relevant documents.

17 H. RSMo 536.070 shall control the rules of evidence, objections, witnesses,
18 judicial notice, affidavits as evidence, and the transcript requirements of the
19 administrative hearing.

20 I. The Finding of Demolition of Neglect shall be based on one or more of the
21 following findings:

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1 (a) Conditions exist that indicate that the property is not being
2 maintained to code standards and that conditions exist that must be corrected to avoid
3 additional deterioration.

4 (b) Conditions exist that cause additional and continual deterioration
5 through the loss of or damage to building elements that keep water from damaging
6 additional materials and elements of the building, leading to structural deterioration, loss
7 of exterior building materials, and the loss of architectural elements.

8 (c) Conditions exist that include the loss of building components that
9 protect other elements of the building from water and weathering, and therefore
10 furthering continuing deterioration.

11 (d) Conditions exist that are causing, or could soon cause, structural
12 instability in the building and therefore contribute to its overall deterioration.

13 (e) Conditions exist that are not limited to a finite element or area of
14 the building, and therefore are, or will become, contributing to the overall deterioration of
15 the building.

16 (f) The owner of the property is not ameliorating conditions that are
17 causing deterioration and instability in the building by taking steps to repair, enclose,
18 stabilize, or otherwise eliminate such conditions.

19 J. Upon conclusion of a hearing, the Administrative Hearing Officer shall
20 issue Findings of Fact, Conclusions of Law and Order of the Hearing Officer (“Order”)

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1 setting forth the facts and law which support his/her determination of “Demolition By
2 Neglect”.

3 K. In the event that Demolition By Neglect is found, the Administrative
4 Hearing Officer shall enter an Order of Abatement, requiring the Party to implement
5 reasonable measures designed to abate existing violations, stabilize and/or prevent
6 deterioration of the building.

7 L. The Order shall inform the respondent of his/her right to seek judicial
8 review of the Hearing Officer’s final determination as provided in RSMo 536.100 to
9 536.140.

10 M. The record of all hearings before an Administrative Hearing Officer shall
11 include: (i) a record of the testimony presented at the hearing, which may be made by
12 tape recording, digital recording, or other means; (ii) all exhibits submitted as evidence at
13 the hearing; and (iii) a copy of the Order.

14 **SECTION TEN. Safeguards from Undue Economic Hardship.**

15 A. When a claim of Undue Economic Hardship is made, the Building
16 Commissioner shall notify the City Counselor within ten (10) days of receipt of said
17 claim. An administrative hearing shall be scheduled on the claim within thirty (30) days
18 of receiving Notice of the claim of Undue Economic Hardship. Enforcement proceedings
19 under this Ordinance shall be stayed until this hearing can be held, and an administrative
20 order is issued on this claim.

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1 B. When a claim of Undue Economic Hardship is made, the Owner or Party
2 in Interest must provide evidence during the hearing upon the claim, describing the
3 circumstances of hardship, which evidence shall include for all buildings:

4 1. Nature of ownership (individual, business, or nonprofit) or legal
5 possession, custody, and control.

6 2. Financial resources of the Owner and/or Parties in Interest.

7 3. Cost of repairs.

8 4. Assessed value of the land and improvements.

9 5. Real estate taxes for the previous two (2) years.

10 6. Amount paid for the property, date of purchase, and Party from
11 whom purchased, including a description of the relationship between the owner and the
12 person from whom the property was purchased, or other means of acquisition of title,
13 such as by gift or inheritance.

14 7. Annual debt service, if any, for previous two (2) years.

15 8. Any listing of the property for sale or rent, price asked, and offers
16 received, if any.

17 For income-producing property:

18 9. Annual gross income from the property for the previous two (2)
19 years.

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1 10. Itemized operating and maintenance expenses for the previous two
2 (2) years, including proof that adequate and competent management procedures were
3 followed.

4 11. Annual cash flow, if any, for the previous two (2) years.

5 **SECTION ELEVEN.** Consequences of Finding of Undue Economic Hardship.

6 Within thirty (30) days of the Administrative Hearing on a claim of Undue
7 Economic Hardship, the Administrative Hearing Judge shall make a finding of undue or
8 no undue hardship and shall enter the reasons for such finding into the record. In the
9 event of a finding of No Undue Hardship, the Administrative Hearing Officer shall issue
10 an Order for such building to be repaired within a time to be specified.

11 In the event of a finding of Undue Economic Hardship, the finding shall be
12 accompanied by an Order containing a plan for the building taking into account the
13 finding; said plan may include, but is not limited to, an adjustment or reduction of
14 requirements imposed in the original Notice from the Building Commissioner sufficient
15 to mitigate the Undue Economic Hardship. The Building Commissioner shall be issued a
16 copy of the Order, and charged with enforcement of the provisions of the Order.

17 **SECTION TWELVE.** Other City Powers.

18 Nothing contained within this Ordinance shall diminish the City's power to
19 enforce any aspect of the Revised Code of the City of St. Louis.

20 **SECTION THIRTEEN.** Penalties and Remedies.

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1 Enforcement of this Ordinance may be by any one (1) or more of the following
2 methods, and the institution of any action under any of these methods shall not relieve
3 any Party from any other civil or criminal proceeding prescribed for violations and
4 prohibitions.

5 A. Equitable remedy.

6 The City may seek Equitable remedy in Circuit Court to enforce the provisions of
7 this Ordinance.

8 B. Order of Abatement.

9 Administrative Hearing Officer may enter an Order of Abatement. An Order of
10 Abatement may direct that improvements or repairs be made, or that any other action be
11 taken that is necessary to bring the property into compliance with the provisions of this
12 Ordinance.

13 C. Contempt.

14 Whenever the Party against whom the Order of Abatement is issued fails to
15 comply, the Party may be cited for contempt, and shall be subject to sanctions to be
16 determined by a court of competent jurisdiction.

17 D. Remediation.

18 The Building Commissioner shall have the right to exercise its authority to enter
19 into the property to cause remediation of the property as required by the provisions of this
20 Ordinance, and shall exercise his authority to enter into contracts for the work to be
21 performed. When the Building Commissioner shall cause such work to be performed, the

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1 City shall prepare bills for the amount paid for such work by the Party against whom the
2 Order of Abatement was entered, and the Building Commissioner shall have the ability to
3 enter into contracts with no other review, signature or approval from any other City
4 agency.

5 E. The cost of such work shall be paid for by the City of St. Louis. The
6 Building Commissioner shall certify to the Comptroller the cost of such work, including
7 the administrative costs incurred by the Division of Building and Inspection in
8 performing said work, but in no event shall such administrative costs exceed ten (10)
9 percent of the contract price incurred by the Division of Building and Inspection in
10 performing such work. The Building Commissioner shall prepare bills for such work
11 against the Party against whom the Order of Abatement has been issued. In case said
12 bills are not paid upon presentation, they shall be referred to the City Counselor, who
13 shall proceed to collect the same by any legal remedies available by law. Any such bill
14 which has not been collected within 180 days after it is first mailed to such Party shall be
15 certified to the Comptroller, who shall notify the Collector of Revenue. The Collector of
16 Revenue shall include the certified cost in the annual real estate bill for the property and
17 the certified cost shall be collected in the same manner and procedure for collecting real
18 estate taxes.

19 All such money collected as provided for in Subsection E of this Section shall be
20 transmitted daily to the Treasurer of the City of St. Louis in the form and manner
21 prescribed by the Comptroller of the City of St. Louis. The Comptroller shall hold all
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1 such money collected pursuant to this Section for deposit into the special demolition fund
2 established by a vote of the people and set forth in Ordinance 8790, Section 1082.7.

3 **SECTION FOURTEEN. Severability.**

4 The provisions of this Ordinance are severable. In the event any provision of this
5 Ordinance is determined to be invalid, the remaining provisions shall not be affected
6 thereby.

March 7, 2014

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**Board Bill #332 INTRODUCED BY ALDERMAN CRAIG SCHMID, PRESIDENT
LEWIS REED, ALDERMAN CHRIS CARTER, ALDERWOMAN CAROL HOWARD,
ALDERWOMAN JENNIFER FLORIDA, ALDERWOMAN SHARON TYUS,
ALDERWOMAN CHRISTINE INGRASSIA, ALDERMAN JOSEPH VACCARO,
ALDERMAN SCOTT OGILVIE, ALDERMAN JEFFREY BOYD**