

**BOARD BILL NO. 332    INTRODUCED BY ALDERMAN CRAIG SCHMID**

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;

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

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  
22 benefits to the public will be substantial through the establishment of a Demolition By  
23 Neglect Ordinance.

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

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

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

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

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

14          **SECTION THREE.** Purpose.

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

18          **SECTION FOUR.** Definitions.

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

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

1 (b) "Owner" means the holder of the title in fee simple and every mortgagee  
2 of record;

3 (c) "Parties in interest" means all individuals, associations, and corporations  
4 who have interests of record in a building and any who are in possession and/or exercise  
5 control thereof.

6 **SECTION FIVE. Standards.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) Conditions exist that cause additional and continual deterioration through  
22 the loss of or damage to building elements that keep water from damaging additional

1 materials and elements of the building, leading to structural deterioration, loss of exterior  
2 building materials, and the loss of architectural elements;

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

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

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

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

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

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

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

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

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

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

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

15 D. Methods of Service.

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

- 18 (1) Delivery direct to Owner and/or Party in Interest;
- 19 (2) Mailing a copy of said Notice by regular mail, postage prepaid,  
20 direct to Owner and/or Parties in Interest to such Party's place of business, known  
21 residence, or the address currently recorded in the Assessor's Office of the City of St.  
22 Louis;

1                   (3)     Publication in newspaper of general circulation in the City of St.  
2     Louis;

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

4                   **SECTION SEVEN. Actions.**

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

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

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

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

16                  **SECTION EIGHT. Summons.**

17                  Any Owner and/or Party in Interest who does not abate the conditions set forth in  
18     the Notice within the thirty (30) day period may be issued a Summons alleging  
19     Demolition By Neglect. A Defendant who is found guilty of, or pleads guilty to, such  
20     offense shall be subject to a fine of not less than \$300.00 and not more than \$500.00, and  
21     any other penalty available by law, including up to ninety (90) days in jail, for the first  
22     offense. A Defendant who is found guilty of, or pleads guilty to, a second offense of  
23     Demolition by Neglect shall be subject to a fine of not less than \$500.00, and any other

1 penalty available by law, including up to ninety (90) days in jail. Each day the conditions  
2 on the Summons exist may be deemed a separate and distinct offense for which a  
3 Summons may be issued.

4 **SECTION NINE.** Administrative Hearings.

5 A. Any Owner and/or Party in Interest who does not abate the conditions set  
6 forth in the Notice within the thirty (30) day period may be subject to the provisions of  
7 the Section. The Building Commissioner may initiate an Administrative Hearing in order  
8 to seek a finding of Demolition By Neglect, and, if so found, request an Order of  
9 Abatement.

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

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

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

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

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

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

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

1           H.       RSMo 536.070 shall control the rules of evidence, objections, witnesses,  
2 judicial notice, affidavits as evidence, and the transcript requirements of the  
3 administrative hearing.

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

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

9               (b)     Conditions exist that cause additional and continual deterioration  
10 through the loss of or damage to building elements that keep water from damaging  
11 additional materials and elements of the building, leading to structural deterioration, loss  
12 of exterior building materials, and the loss of architectural elements.

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

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

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

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

1 J. Upon conclusion of a hearing, the Administrative Hearing Officer shall  
2 issue Findings of Fact, Conclusions of Law and Order of the Hearing Officer (“Order”)  
3 setting forth the facts and law which support his/her determination of “Demolition By  
4 Neglect”.

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

9 L. The Order shall inform the respondent of his/her right to seek judicial  
10 review of the Hearing Officer’s final determination as provided in RSMo 536.100 to  
11 536.140.

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

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

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

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.

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

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

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

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

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

13           **SECTION TWELVE.** Other City Powers.

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

16           **SECTION THIRTEEN.** Penalties and Remedies.

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

21           A.     Equitable remedy.

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

1           B.       Order of Abatement.

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

6           C.       Contempt.

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

10          D.       Remediation.

11          The Building Commissioner shall have the right to exercise its authority to enter  
12 into the property to cause remediation of the property as required by the provisions of this  
13 Ordinance, and shall exercise his authority to enter into contracts for the work to be  
14 performed. When the Building Commissioner shall cause such work to be performed, the  
15 City shall prepare bills for the amount paid for such work by the Party against whom the  
16 Order of Abatement was entered, and the Building Commissioner shall have the ability to  
17 enter into contracts with no other review, signature or approval from any other City  
18 agency.

19          E.       The cost of such work shall be paid for by the City of St. Louis. The  
20 Building Commissioner shall certify to the Comptroller the cost of such work, including  
21 the administrative costs incurred by the Division of Building and Inspection in  
22 performing said work, but in no event shall such administrative costs exceed ten (10)  
23 percent of the contract price incurred by the Division of Building and Inspection in

1 performing such work. The Building Commissioner shall prepare bills for such work  
2 against the Party against whom the Order of Abatement has been issued. In case said  
3 bills are not paid upon presentation, they shall be referred to the City Counselor, who  
4 shall proceed to collect the same by any legal remedies available by law. Any such bill  
5 which has not been collected within 180 days after it is first mailed to such Party shall be  
6 certified to the Comptroller, who shall notify the Collector of Revenue. The Collector of  
7 Revenue shall include the certified cost in the annual real estate bill for the property and  
8 the certified cost shall be collected in the same manner and procedure for collecting real  
9 estate taxes.

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

15 **SECTION FOURTEEN.** Severability.

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