



## PROPERTY MAINTENANCE INSPECTION REQUIREMENTS FOR SALE OF PROPERTIES IN THE CITY OF O'FALLON, IL

We would like to take this opportunity to notify all area realtors, title companies, financial institutions and property management firms of the current requirements of our Property Maintenance Code for the transfer of ownership or change of occupancy of residential and commercial property in the City of O'Fallon.

There has been some confusion recently as to who is responsible for applying for and obtaining an Occupancy Permit. With the recent increase in foreclosures and the sale of those properties, some realtors were under the assumption that they can be sold "as is" and that the new owner would then be responsible for applying and obtaining the Occupancy Permit. In April 2008, the City of O'Fallon Building Code Adopting Ordinance #3302 was amended and Section 6, Property Maintenance Code was completely rewritten to clarify responsibility for obtaining the Occupancy Permit. Two sub-sections are of particular importance in this new section (please note highlighted sections). The first is as follows:

### 6.02 Occupancy Permit and Inspections

(a) The following additional regulations are hereby adopted as supplementary and in addition to the requirements of the Property Maintenance Code and are hereby incorporated as if fully set forth therein.

(i) **Permit Required.** It shall be unlawful for the owner of a parcel of real estate on which a residential or non-residential structure is situated, to occupy the structure or permit the occupancy of the structure by any person without obtaining an Occupancy Permit issued by the Code Official. Further, the owner shall not occupy or allow the occupancy of any existing residential or non-residential, if the Occupancy Permit thereto has been revoked.

To obtain an Occupancy Permit, the *owner must comply with the application process outlined in Section 6.02 (a)(ii) within the prescribed time.*

Once an Occupancy Permit is issued it shall thereafter be unlawful for the owner to change or allow change of occupancy of the residential or non residential/commercial structure without obtaining an Occupancy Permit.

*For purposes of this Section 6, "owner" is defined as the person or entity maintaining fee simple title to the real estate on which the structure is located at the time of transfer of the title to the real estate to the transferee or at the time of change in occupancy of the structure situated on the real estate.*

*For purposes of this Section 6, the term "change in occupancy" shall mean a change in possession of a residential or nonresidential structure by way of rental, leasehold, ownership, or other manner of tenancy.*

*For purposes of this Section 6, the term “change in ownership” shall mean;*

- (a) Transfer of title to the real property via a deed.*
- (b) Transfer of majority interest in a land trust holding title to the real property.*
- (c) Transfer of majority interest in a Corporation, Limited Liability Company, Partnership or other entity holding title to the real property.*

The other section is as follows:

**EXCEPTIONS:** The provisions of Section 6.02 (a)(i) shall not be applicable in the following instances:

- A. To the change in ownership of a structure containing a dwelling unit when the change in ownership is between immediate-family members and if there is no change in occupancy;
  - B. To the change in occupancy or ownership of a residential or non-residential within twenty four (24) months from the date of the last issue of the Occupancy Permit herein required, but not at a longer interval as required by other sections of this code, provided there is no just cause for re-inspection of the premises;
  - C. To the change in ownership when the new purchaser/transferee within seven (7) days from date of purchase or transfer, delivers a notarized statement to the Code Official stating that the purchaser/transferee will cause the structure to be demolished within six (6) months from the date of purchase.
  - D. To the change in ownership or occupancy of a residential structure within thirty six (36) months from the date of issue of a Certificate of Occupancy for new construction.
  - E. *To the change in ownership of any structure when a new owner accepts all responsibility for obtaining the inspection and an Occupancy Permit required by Section 6.02 (a)(i) and 6.02 (a)(ii), provided that both owner and new owner agree and such agreement is submitted to the Code Official, along with the application, in the form of a written document signed by all parties and the signatures notarized.*
- (ii) **Application Process.** *Application for the Occupancy Permit required by the Property Maintenance Code shall be made by the owner of the structure or by his agent. Any application submitted by a person other than the fee owner shall be done so with legal authorization from the fee owner.* The application shall contain the full name and address of the owner or the names and addresses of the responsible officers if the owner is other than a natural person, and the name and address of the applicant.

The application for such Occupancy Permit shall be submitted in such form as the code official prescribes and shall be filed with the Code Enforcement Section of the Planning & Zoning Department:

A. *In the case of a change of ownership, irrespective of tenancy, at least seven days before the date of transfer of title or effective date of contract for deed.*

B. In the case of a change of renter, tenant or lessee.

Once application is made, owner can allow a change in occupancy. The property maintenance inspection required for issuance of an Occupancy Permit must be scheduled within 7 days after application is made and once the property maintenance inspection is completed and the owner has been notified of any violations, all violations shall be corrected within 30 days and a re-inspection scheduled. An extension of the 30 day period listed above can be obtained, with due cause, only after written request and then by approval of the Code Official.

I have highlighted the areas that are relevant to understanding the requirements for compliance with City of O'Fallon Ordinances. You can view and print the entire Section 6, Property Maintenance Code by going to our website, [www.ofallon.org/planzoning](http://www.ofallon.org/planzoning) and on the left side under Additional Links, click on Occupancy Permit Inspections, then click on the Ordinance Adopting Property Maintenance Code.

To summarize these requirements concerning the responsibility for applying and obtaining an Occupancy Permit:

- The current owner or agent must make application
- Owner must comply with the application process
- "Owner" is clearly defined
- "Change of ownership" is clearly defined
- However, the new owner can assume the responsibility of making application, "provided that both the owner and new owner agree and such agreement is submitted to the Code Official, along with the application, in the form of a written document signed by all parties and the signatures notarized"
- This must be done "at least 7 days before the date of transfer of title or effective date of contract for deed"
- Foreclosed properties, "short sale" properties, bank owned properties are not exempt from this requirement

While the recent changes were made to clarify these requirements, we realize that it still may be confusing to someone not familiar with the ordinance. If you have any questions or need any clarifications on these requirements, please call our office at 624-4500x4 and we will be glad to discuss this with you.

Thanks for your assistance in this matter.

Sincerely,

Jeff Stehman, C.B.O.  
Building and Zoning Supervisor  
City of O'Fallon