

ORDINANCES OF THE CITY OF SEVERY, KANSAS

Ordinance No. 432

**AN ORDINANCE PROVIDING FOR REPAIR, CLOSING, DEMOLITION, OR REMOVAL OF DANGEROUS, UNSAFE, OR ABANDONED STRUCTURES, AND REPEALING ORDINANCE 324 AND ARTICLE II OF ORDINANCE NO. 294.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SEVERY, KANSAS, THAT:

Section One

PURPOSE OF THIS ORDINANCE

Structures within the City which have defects that increase the hazards of fire or accident; or have structural or other conditions which render them unsafe, unsanitary, uninhabitable, or contrary to the general welfare of the City; or which cause a blight on the neighborhood or surrounding properties, are deemed by the Governing Body to require repair, closing, demolition or removal. The purpose of this Ordinance is to provide for repair, demolition, or removal of structures within the City that have become unsafe or dangerous; and to provide for repair, closing, rehabilitation, demolition, or removal of abandoned structures.

Section Two

DEFINITIONS

For purposes of this Ordinance, the definitions provided in K.S.A. 12-1750-1756g, as amended, shall apply, and the following words and terms shall have the following meanings:

- a. "Enforcing Officer" means the person designated by the Governing Body to administer and enforce this Ordinance,
- b. "Structure" includes any building, wall, superstructure, or other structure that requires location on the ground, or is attached to something having a location on the ground.

Section Three

DUTIES OF ENFORCING OFFICER

The Enforcing Officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this Ordinance, including without limitation the following:

Ordinance No. 432 (Page 2 of 6)

- a. Inspect any structure which appears to be unsafe, dangerous, unfit for human habitation, or abandoned.
- b. Report to the Governing Body all structures which he or she believes to be dangerous, unsafe, or unfit for habitation; and report to the appropriate law enforcement, fire, or administrative authorities any situations he or she deems emergent.
- c. Receive petitions as provided in this Ordinance.

Section Four  
RIGHT OF ENTRY

It shall be a violation of this Ordinance to deny the Enforcing Officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a violation of this Ordinance exists. The Enforcing Officer shall enter upon the premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. Notwithstanding the foregoing, if entry is denied by such person, the Enforcing Officer will then seek an order or warrant from an administrative body or a court of competent jurisdiction before entry.

Section Five  
PETITION PROCEDURE

When a petition is filed with the Enforcing Officer by at least five (5) residents charging that a structure is unsafe, dangerous, unfit for human habitation, or abandoned; or when the Enforcing Officer on his or her own motion has made a preliminary investigation that discloses a basis for such charges, the Enforcing Officer shall report such petition, or the basis for such charges, to the Governing Body.

Section Six  
RESOLUTION AND HEARING TO SHOW CAUSE

- a. Upon receipt of a petition or report as provided in Section Five, the Governing Body shall by resolution fix a time and place at which an owner or the owner's agent, any lienholder of record, and/or any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired, demolished, or removed.

Ordinance No. 432 (Page 3 of 6)

b. The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

c. A copy of the resolution shall be mailed by certified mail, return receipt requested, within three days after its first publication, addressed to each owner, agent, lienholder, and occupant at the last known address, and it shall be marked "deliver to addressee only."

d. On the dated fixed for hearing, the Governing Body shall hear all evidence submitted by any interested party and shall make findings by resolution. If, after notice and a hearing, the Governing Body finds that the structure is unsafe, dangerous, unfit for human use or habitation, or abandoned, the Governing Body shall issue a resolution stating its findings, and it shall cause the resolution to be published once in the official City newspaper and a copy mailed to the owner(s), agent(s), and/or occupant(s) by certified mail, return receipt requested, marked "deliver to addressee only."

e. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced, and shall provide a statement that, if no owner of such structure commences the repair or removal of such structure within the time stated, or fails to diligently see that the work is completed, the Governing Body will issue an Order causing the structure to be repaired, demolished, or removed; or, if the property is abandoned, to be rehabilitated.

Section Seven  
DUTY OF OWNER

When any structure within the City shall be found to be unsafe, dangerous, or unfit for human habitation, it shall be the duty and obligation of the owner(s) of the property to render the structure secure and safe, or to demolish or remove the structure. The failure of some or all owners to join timely in rendering the structure secure and safe shall not delay the Governing Body's right and obligation to proceed with rehabilitation, demolition, or removal of the structure.

Section Eight  
FAILURE TO COMPLY

a. If, within the time specified in the published resolution, the owner(s) are not in compliance with the requirements of the resolution to repair, alter, improve, or vacate the

Ordinance No. 432 (Page 4 of 6)

structure, the Governing Body shall issue and order directing the Public Officer to cause the structure to be repaired, altered, improved, vacated or closed.

b. If, within the time specified in the published resolution, the owner(s) are not in compliance with the requirements of the resolution to demolish or remove the structure, the Governing Body shall issue an order directing the Enforcing Officer to demolish or remove the structure.

Section Nine

**SAFEGUARDING THE SITE OF DEMOLITION OR REMOVAL**

Upon removal or demolition of a structure, the owner(s) shall fill any basement, cellar, or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action within 24 hours of the removal or demolition of the structure, the Enforcing Officer shall proceed, without further order or direction of the Governing Board, to make the site safe within the next 24 hours.

Section Ten

**ASSESSMENT OF COSTS**

a. The costs to the City of any repairs, rehabilitation, alterations, improvements, vacating, demolition, or removal, including making the site safe, shall be reported to the City Clerk by the Enforcing Officer.

b. The City shall give notice to the owner(s) of the structure by certified mail, return receipt requested, of the costs of repair, rehabilitation, alteration, improvements, vacating, demolition, or removal, and of making the premises safe and secure. The notice shall state that payment of said costs is due and payable within thirty (30) days after any owner's receipt of the notice.

c. If the costs remain unpaid after thirty (30) days following an owner's receipt of notice, the City Clerk is authorized, without further order of the Governing Body, to sell any salvage from the structure and apply the proceeds or any necessary portion thereof, to pay the costs of vacating, demolishing, or removing the structure and making the site safe. Any proceeds in excess of that required to pay the costs shall be paid to the owner(s) of the premises upon which the structure was located.

Ordinance No. 432 (Page 5 of 6)

d. If the proceeds of the sale of salvage, or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-2901, *et seq.*, as amended, are insufficient to recover the City's above-stated costs, or if there is no salvage, the balance of the costs shall be collected in the manner provided by K.S.A. 12-1,115, as amended, and shall be assessed as special assessments against the lot or parcel of land on which the structure was located. The City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the County Clerk, who shall extend the same on the tax rolls of Greenwood County against such lot or parcel of land, and it shall be collected by the County Treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, as amended, but only until the full costs and applicable interest have been paid in full.

e. If there is no salvageable material, or if amounts received from the sale of salvage or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-3901, *et seq.*, as amended, are insufficient to pay the costs of the work and the costs of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund, or by issuance of no-fund warrants.

**Section Eleven  
IMMEDIATE HAZARD**

Notwithstanding the foregoing provisions for notice and hearing, when, in the opinion of the Governing Body, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the Governing Body shall issue an order directing the Enforcing Officer to erect barricades, cause the property to be vacated, cause the property to be repaired, shored, or otherwise made safe, or if no lesser action is likely to alleviate the immediate hazard, cause the property to be demolished or removed, without delay. Such an order may issue without prior notice or hearing of the owner(s), agents, lienholders, or occupants. The costs of any action taken under this Section Ten shall be assessed against the property, as provided in Section Ten.

**Section Twelve  
SCOPE OF ORDINANCE**

This Ordinance shall be in full force and effect after its publication in the official newspaper of the City. Nothing in this Ordinance shall be construed to abrogate or impair the powers of the courts, nor to prevent or punish violations of any other Ordinances. The powers

Ordinance No. 432 (Page 6 of 6)

conferred by this Ordinance shall be in addition to and supplemental to the powers conferred by any other law or Ordinance. Nothing in this Ordinance impairs or limits the power of the City to define and declare public nuisances, nor may this Ordinance be construed to alter, preclude, or impede any provision of Ordinance 431 providing for treatment of public nuisances. Article II of Ordinance No. 324 is hereby repealed.

Adopted by the City Council on the 6<sup>th</sup> day of January, 2020.

Thomas E. Eulank  
Mayor

Attest: Coranda Myers  
City Clerk