

ORDINANCE NO. G-2865

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF ANTHONY, KANSAS, REPLACING SECTIONS 7-501 through 7-515 OF THE CODE OF THE CITY OF ANTHONY, KANSAS, FOR UPDATING THE DANGEROUS STRUCTURE LAWS AND PROCEDURES, AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the City of Anthony, Kansas has determined that there exists within the corporate limits of the city properties which are dangerous or unsafe, unsanitary, or otherwise inimical to the general welfare of the city; and

WHEREAS, the City is in need of updating existing dangerous structure codes to adequately address said dangerous or unsafe conditions;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANTHONY, KANSAS:

7-501. Purpose.

The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article.

7-502. Definitions.

For the purpose of this article, the following words and terms shall have the following meanings:

(a) Enforcement Officer - means the building inspector or police chief.

(b) Structure - shall include any building, wall, superstructure, or other structure which requires location on the ground or is attached to something having a location on the ground.

(c) Dangerous or Unsafe Structure - A Structure in which conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the municipality or which have an adverse impact on properties in the area. Such conditions may include, but are not limited to, the following: Defects increasing the hazards of fire, accident, or other calamities; air pollution; light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood; vermin infestation; inadequate drainage; or any violation of state or local health, fire, building or zoning regulations including violations of construction permitting processes which cause a Structure to remain in a state as described herein.

7-503. Enforcing officer; duties.

The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:

- (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
- (b) Have authority to enter upon 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. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;
- (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;
- (d) Receive petitions as provided in this article.

7-504. Procedure; petition.

Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body.

7-505. Same; notice.

The governing body upon receiving a report as provided in section 7-504 shall by resolution fix a time and place at which the owner, the owner's agent, any lien holder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

7-506. Same; publication.

- (a) 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.
- (b) A copy of the resolution shall be mailed by certified mail restricted delivery within three days after its first publication to each owner, agent, lien holder and occupant at the last known address and shall be marked "deliver to addressee only."

7-507. Same; hearing, order

If, after notice and hearing or any adjournment thereof, the governing body determines that the structure under consideration is Dangerous or Unsafe it shall make findings by resolution and direct the structure to be repaired or removed so that such structure and accompanying land is no longer Dangerous or Unsafe and does not constitute a hazard to the public. Such resolution shall be published once in the official city newspaper and a copy mailed to the owners, agents, lien holders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be repaired or razed and removed.

7-508. Duty of owner.

Whenever any structure within the city shall be found to be dangerous or unsafe, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. The owner of any structure, upon removing the same, shall fill any basement or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition, with the ground leveled and free of debris. If the owner fails to take such action, the enforcing officer may proceed to make the site safe. The cost of which shall be recovered by any means described herein or as allowed under Kansas statute.

7-509. Same; failure to comply.

- (a) If, within the time specified in the resolution, the owner fails to commence and complete the order to repair, alter, improve, or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved, or to be vacated and closed, make the premises safe and secure, or let the same to contract.
- (b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer may cause the structure to be removed and demolished, make the premises safe and secure, or let the same to contract.

7-510. Assessment of costs.

- (a) The cost to the city of any removal or demolition by the enforcing officer, including making the site safe, shall be reported to the city clerk.
- (b) The city shall give notice to the owner of the structure by certified mail of the cost of removing the structure and making the premises safe and secure, and the cost of providing notice. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.
- (c) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.
- (d) If the cost is not paid within the 30-day period and 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. 40-3901 et seq., and amendments thereto, are insufficient to recover the above stated costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the county clerk and who shall extend the same on the tax rolls of the 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, and amendments thereto, but only until the full cost and applicable interest has been paid in full.
- (e) Whenever any structure is removed from any premises under the provisions of this act, the city clerk shall certify to the county appraiser that such structure, describing the same, has been removed.

7-511. Immediate hazard.

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 may direct the enforcing officer to erect barricades or cause the property to be vacated, demolished, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lien holders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 7-510.

7-512. Appeals from order.

Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case.

7-513. Scope of article.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:1756.

7-514. Assessments levied pursuant to unpaid costs.

The amount is due from property owner(s) for services rendered by the City of Anthony upon presentation of bill. Failure of property owner(s) to pay amount due may result in the City bringing an action in district court, causing a special assessment to be levied on the property, and any other manner of collection provided by law.

This ordinance shall take effect and be in force, from and after its passage, approval, recording, and publication as provided by law.

PASSED AND ADOPTED by the Commission of the City of Anthony, State of Kansas, on this 18th day of October, 2022.

Gregory Cleveland, Mayor

Cyndra Kastens, City Clerk/Administrator

