

ORDINANCE NO. 1361

AN ORDINANCE DECLARING CERTAIN STRUCTURES, EQUIPMENT AND OTHER PROPERTY UNSAFE AND UNFIT FOR HUMAN USE OR HABITATION, EMPOWERING THE GOVERNING BODY OF THE CITY OF WEIR TO CAUSE THE REPAIR OR REMOVAL OF SAID STRUCTURES, EQUIPMENT AND OTHER PROPERTY, AND ALLOWING THE CITY TO LEVY SPECIAL ASSESSMENTS ON THE REAL ESTATE OF THE OWNER OR TENANT WHO IS IN VIOLATION THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WEIR, KANSAS.

Section 1: Statement of Purpose. The governing body has found that there exists 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 ordinance.

Section 2: Definitions. For the purpose of this ordinance, the following words and terms shall have the following meanings:

- a. Public Officer shall mean an individual designated by the mayor who is charged with the administration and enforcement of this ordinance.
- b. Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something have a location on the ground.

Section 3: Public Officer; Duties. The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this ordinance, 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 public 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; and
- d. Receive petitions as provided in this ordinance.

Section 4: Conditions Making Structures and Other Property Unfit for Human Use or Habitation. The public officer or governing body may determine that a structure or other property is unfit for human use or habitation if it finds that conditions exist in such structure or other property, are dangerous or injurious to the health, safety or morals of the occupants of such building or other residents of such municipality or which have a blighting influence on properties in the area. Such conditions may include the following, without limitation:

- a. Defects thereon increasing the hazards of fire, accident or other calamities;
- b. Dilapidation;
- c. Disrepair, structural defects, uncleanliness;
- d. Overcrowding;
- e. Inadequate ingress and egress;
- f. Dead and dying trees;
- g. Limbs or other unsightly growth;
- h. Unsightly appearances that constitute a blight to adjoining property, the neighborhood or the City;
- i. Walls, sidings or exterior of a quality and appearance not commensurate with the character of the properties in the neighborhood;
- j. Unsightly stored or parked material equipment, supplies, machinery, trucks or automobiles or parts thereof;
- k. Abandoned refrigerators, stores or other equipment; or
- l. Any violation of health, fire, building or zoning regulations or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements.

Section 5. Procedure, Petition. Whenever a petition is filed with the public officer or governing body by at least five (5) residents charging that any structure is dangerous, unsafe, or unfit for human habitation, or whenever it appears to the public officer 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 finding to the governing body.

Section 6. Same, Notice. The governing body upon receiving a report as provided in Section 5 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.

Section 7. 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 within three days after its first publication to each owner, agent, lien holder and occupant at the last known place of residence and shall be marked "deliver to addressee only."

Section 8. Same, Hearing, Order. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of facts in support of such determination and shall cause the resolution to 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 razed and removed.

Section 9. Same; Duty of Owner. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, 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.

Section 10. Same, Failure to Comply.

a. If, within the time specified in the order, the owner fails to comply with 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.

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.

Section 11. Requirement to Make Site Safe. Upon removal of any structure, the owner shall fill any basement 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, the public officer may proceed to make the site safe.

Section 12. Assessment of Costs

a. The cost to the City of any repairs, alterations, improvements, removal or demolition by the public 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 restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within thirty (30) days following receipt of the notice.

c. If the costs remain unpaid after thirty (30) days following receipt notice, the City Clerk may sell any salvage from the structure and apply the proceeds of 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 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. 403901, *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. 12-115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

e. If there is no salvage material, or if the moneys receive 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.*, and amendments thereto, 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 the issuance of no-fund warrants.

Section 13. 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 public officer to erect barricades or cause the property to be vacated, taken down, repaired, shore or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, mortgagees, lien holders or occupants. The cost of any action under this section shall be assessed against the property as provided in Section 12.

Section 14. Appeals from Order. Any person affected by an order issued y the Governing Body under this ordinance may, within 30 days following service of the order, petition, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case.


Section 15. Scope of Ordinance. Nothing in this ordinance shall be construed to abrogate or impair the powers of the courts or of any department of the City of Weir to enforce any provisions of its charter or its ordinances or regulation, nor to prevent or punish violation thereof; and the powers conferred by this ordinance shall be in addition

to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this ordinance 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. Chapter 17.

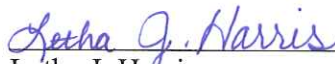
Section 16. Repeal of Prior Ordinances. That all ordinances, or parts thereof, including but not limited to Ordinance 1356, in conflict with the terms of this ordinance be, and the same are, hereby repealed.

Section 17. Effective Date. This Ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

ADOPTED AND APPROVED by the City Council of the City of Weir, Kansas this 25th day of August, 2008.


Sandra Stricklin, Mayor

ATTEST


Letha J. Harris
City Clerk

