

ORDINANCE NO. 1796

AN ORDINANCE OF THE CITY OF NEODESHA, KANSAS ESTABLISHING A MINIMUM HOUSING CODE AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

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

Section 1. Chapter 8 of the City of Neodesha Code is amended by adding Article X to read as follows:

ARTICLE X. – MINIMUM HOUSING CODE

Sec. 8-466. – Title.

This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this housing code."

Sec. 8-467. – General.

Buildings used in whole or in part as a home or residence of a single-family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or nonresidential, shall conform to the requirements of this housing code.

Sec. 8-468. – Declaration of policy.

The governing body declares the purpose of this housing code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:

- (a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
- (b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and nonresidential structures;
- (c) Determines the responsibilities of owners, operators and occupants;
- (d) Provides for the administration and enforcement thereof.

Sec. 8-469. – Definitions.

- (a) The following definitions shall apply to the enforcement of this housing code:

Basement means a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Cellar means a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing hereinafter defined shall not be regarded as a dwelling.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.

Garbage means any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.

Habitable dwelling means any structure or part thereof that shall be used as a home or place of abode by one or more persons.

Habitable room means a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.

Infestation means the presence, within or around a dwelling, of insects, rodents, or other pests.

Multiple-dwelling means any dwelling containing more than two dwelling units.

Occupant means any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator means any person who has charge, care, owns, or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.

Owner means any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this housing code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person was actually the record owner or owner of such property.

Plumbing means and includes all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

Premises means any lot or land area, either residential or nonresidential, not covered by a structure and which is subject to a city tax in part or in whole.

Public officer means the city administrator or his designee.

Refuse means and includes garbage and trash.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rooming house means any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Structure means anything constructed or erected on the ground or attached to something having a location on the ground.

Supplied means paid for, furnished, or provided by or under the control of, the owner or operator.

Temporary housing means any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, house or building or another structure, or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

Trash (combustible) means waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

Trash (noncombustible) means waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other noncombustible material.

(b) Whenever the terms "dwelling," "dwelling unit," "rooming house," "rooming unit," and "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Sec. 8-470. – Duty of occupant or owner of occupied or unoccupied building and its premises or vacant premises.

(a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-473 and 8-474.

(b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he occupies and of which he has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this housing code applicable to the premises.

(c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the unit primarily infested.

(e) Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

Sec. 8-471. – Regulations for the use and occupancy of dwellings.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) Attached garages or non-dwelling areas. All non-dwelling occupancies shall be separated from the dwelling unit by a fire-resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

(b) Basement or cellar. The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.

(c) Basement dwelling units. The use of basements or cellars for dwelling units is prohibited unless they comply with subsection (r) of this section governing ventilation; provided, however, if occupied at the time of the passage of this housing code and if it complies with all other provisions of this housing code, the public officer may approve less than the required windows, if in his opinion, the window area is not detrimental to the occupants.

(d) Bathing facilities. Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

(e) Boardinghouses and rooming houses. No room shall be used for sleeping purposes unless the ceiling height is at least seven feet and there are at least 400 cubic feet of air space for each occupant over six years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet over at least 50 percent of the floor area.

(1) Bathing facilities shall be provided in the form of a tub or shower for each eight occupants. Separate facilities shall be provided for each sex and plainly marked.

(2) A flush water closet shall be provided for each six occupants and shall be separated with the separate access from bathing facilities if more than four occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.

(f) Drainage. All courts, yards or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are excepted from this section.

(g) Entrances.

(a) There shall be for each dwelling unit a normally used separate access either to a hallway, stairway, or street, which is safe and in good repair.

(b) A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard or egress.

(h) Floor area. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this subsection.

(i) Garbage and trash receptacles. Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32-gallon capacity, as may be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

(j) Heating. Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of 70 degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order, and the owner of the approved heating equipment shall maintain it in good order and repair.

(k) Kitchen sink. In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the city administrator or his/her designee.

(l) Lavatory facilities. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.

(m) Lighting. Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor, or at least two wall or floor outlets.

(n) Lighting of toilets and bathrooms. Every toilet and every bathroom in every dwelling shall have at least one electric light in either the ceiling or on the wall.

(o) Plumbing. All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

(p) Privies. All pit privies, privy vaults, dry hopper sewer-connected privies and frost-proof closets are hereby declared to be a public nuisance.

(q) Toilet facilities. There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room which affords privacy.

(r) Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window openable directly to the outside air and the total area of such window shall be not less than five percent of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of openable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the "on" position.

(s) Water heating facilities. Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.

(t) Windows and doors. Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.

Sec. 8-472. – Maintenance and repair; dwellings.

Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition.

Sec. 8-473. – Designation of unfit dwellings.

The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

- (a) The public officer may determine, or five citizens may petition in writing, that any dwelling unit is unfit for human use or habitation if he finds that 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 neighborhood, or which shall have a blighting influence on properties in the area.
- (b) Such conditions may include the following, without limitation:
 - (1) Defects therein increasing the hazards of fire, accident, or other calamities.
 - (2) Lack of:
 - (A) Adequate ventilation.
 - (B) Light.
 - (C) Cleanliness.
 - (D) Sanitary facilities.
 - (3) Dilapidation.
 - (4) Disrepair.
 - (5) Structural defects.
 - (6) Overcrowding.
 - (7) Inadequate ingress and egress.
 - (8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.
 - (9) Air pollution.
- (c) Placarding; order to vacate. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public officer shall be vacated within a reasonable time as so ordered.
- (d) Notice of violation. Procedures as outlined in section 8-477 are applicable hereto.
- (e) Compliance required before re-occupancy. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the public officer.
 - (1) The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

- (2) It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this housing code.
- (3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the public officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this housing code.

Sec. 8-474. – Designation of blighted premises (residential and nonresidential).

The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements:

(a) The public officer may determine, or five citizens may petition in writing, that if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:

- (1) Dead trees or other unsightly natural growth.
- (2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.
- (3) Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

(2) Notice of violation. Procedures as outlined in section 8-477 are applicable hereto.

Sec. 8-475. – Designation of blighted buildings and premises (nonresidential).

(a) Certain blighted conditions covered in sections 8-473 and 8-474 concerning buildings and premises which are on the tax roll of the city are applicable to all nonresidential buildings and premises.

(b) Notice of violation. Procedures of notification shall follow those prescribed in section 8-477.

Sec. 8-476. – Inspection of buildings and structures, and premises.

(a) For the purpose of determining compliance with the provisions of this housing code, the public officer or his authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

(b) The public officer is not limited by the conditions in subsection (a) of this section where new construction or vacant premises are involved and may make such inspections at any appropriate time.

(c) The owner, operator, and occupant of every dwelling, dwelling unit, and rooming unit shall give the public officer, or his authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.

(d) Every occupant of a dwelling shall give the owner thereof, or his authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this housing code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this housing code.

Sec. 8-477. – Notice of violations; procedures.

(a) Informal discussion. Whenever the public officer or his authorized representative determines that there has been a violation of any provision of this housing code, the public officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) Formal hearing with governing body. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

- (1) Shall be in writing.
- (2) Shall list the violations alleged to exist or to have been committed.
- (3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.
- (4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

- (5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his authorized representative shall include in the record a statement as to why such posting was necessary.
- (6) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the public officer or his authorized representative shall include in the record a verified statement giving details regarding the mailing.

Sec. 8-478. – Enforcing officer; authority.

For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the enforcing officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises.

Sec. 8-479. – Governing body; authority.

The governing body is hereby authorized:

- (a) To informally review all alleged violations as provided in section 8-477(a) prior to notification prescribed in section 8-477(b).
- (b) To conduct a formal hearing as prescribed in section 8-477(b).
- (c) To hear appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this housing code as outlined in section 8-461.
- (d) Discretionary authority may be exercised in specific cases where variance from the terms of the housing code as:
 - (1) Will not adversely affect the public health, safety or welfare of inhabitants of the city.
 - (2) Is in harmony with the spirit of this housing code.
 - (3) Where literal enforcement of the housing code will result in unnecessary hardship.

Sec. 8-480. – Order to correct and/or repair, remove or demolish.

At the time of the placarding and order to vacate specified by section 8-451(c), the public officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-477.

Sec. 8-481. – Demolition by enforcing officer; procedure and costs.

(a) Failure to comply with the order under section 8-480 for the alteration or improvement of such structure, the public officer, with the consent and prior approval of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-474. Condemnation and abatement procedures shall be accomplished in accordance with Chapter 8, Article VI Dangerous and Unfit Structures.

(b) The cost of demolition by the enforcing officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon 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 aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the structure is removed or demolished by the enforcing officer he shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved.

Sec. 8-482. – Governing body; appeals.

(a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within ten days after receiving notice of the decision from the enforcing officer, as provided in section 8-477(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

(b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least ten days before the hearing.

(e) Except where an immediate hazard exists as described in section 8-341, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) of this section shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.

Sec. 8-483. – Right of petition.

After exhausting the remedy provided in section 8-482, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order.

Sec. 8-484 – 8-504 Reserved.

Section 2. All ordinances or parts of ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in force and take effect from and after its adoption and publication once in the official newspaper of the City.

Passed by the Governing Body of the City of Neodesha, Kansas and signed by the Mayor this 13th day of September, 2023.

ATTEST:

/s/ Devin Johnson

Devin Johnson, Mayor

/s/ Stephanie Fyfe

Stephanie Fyfe, City Clerk