

ORDINANCE NO. G-1224

AN ORDINANCE AMENDING ARTICLE III – “DANGEROUS AND UNSAFE STRUCTURES” OF CHAPTER 235 - “NUISANCES”, OF TITLE II “PUBLIC HEALTH, SAFETY AND WELFARE”, OF THE CODE OF ORDINANCES OF THE CITY OF JUNCTION CITY, KANSAS BY RENUMBERING CERTAIN SECTIONS THEREOF

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

**Section 1.** ARTICLE III – “Dangerous and Unsafe Structures” of Chapter 235 – “Nuisances” of Title II, of the Code of Ordinances of the City of Junction City, Kansas, is hereby amended to read as follows:

ARTICLE III. - DANGEROUS OR UNSAFE STRUCTURES

SECTION 235.310 - DEFINITIONS

The following words and phrases when used in this Chapter shall, for the purpose of this Article, have the meanings respectively ascribed to them in this Section:

A. ENFORCING OFFICER: The Code Administrator or his/her designee or other officer designated by ordinance and charged with the administration of the provisions of this act.

B. STRUCTURE: Any building, wall or other structure.

C. UNSAFE OR DANGEROUS STRUCTURE: Any building or portion thereof, including any dwelling unit, mobile home, manufactured home, noncompliant manufactured home, guest room or suite of rooms, or the premises on which the same is located, in which there exists dangerous or unsafe conditions as established herein to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof.

SECTION 235.320 - DANGEROUS OR UNSAFE CONDITIONS

For purposes of determining a dangerous or unsafe structure, the Enforcing Officer shall inspect and find the presence of one or more of the following conditions:

A. Inadequate sanitation. Inadequate sanitation shall include, but not be limited to, the following:

1. Lack of or improper water closets, lavatory, bathtub or shower in a dwelling unit.
2. Lack of or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.
3. Lack of or improper kitchen sink.
4. Lack of hot and cold running water to plumbing fixtures in a hotel.
5. Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
6. Lack of adequate heating facilities.

7. Lack of or improper operation of required ventilating equipment.
8. Room and space dimensions less than required.
9. Lack of required electrical lighting.
10. Infestation of insects, vermin or rodents as determined by the Health Officer.
11. General dilapidation or improper maintenance.
12. Lack of connection to required sewage disposal system.

B. Structural hazards. Structural hazards shall include, but not be limited to, the following:

1. Deteriorated or inadequate foundations.
2. Defective or deteriorating flooring or floor supports.
3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
6. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
7. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
8. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

C. Hazardous wiring. All wiring except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

D. Hazardous plumbing. All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.

E. Hazardous mechanical equipment. All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.

F. Faulty weather protection which shall include, but not be limited to, the following:

1. Deteriorated, crumbling or loose plaster.

2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
3. Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering.
4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.

G. Fire hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Chief of the Fire Department or his/her deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

H. Faulty materials of construction. All materials of construction except those which are specifically allowed or approved by the Building Code and which have been adequately maintained in good and safe condition.

I. Inadequate maintenance. Any building or portion thereof which is determined to be an unsafe building in accordance with Section 115 of the International Building Code.

J. Improper occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.

#### Section 235.330 - GOVERNING BODY POWERS

The Governing Body of the City of Junction City, Kansas, shall have power to cause the repair or removal of or to remove any structure located within the City, which may have become unsafe or dangerous, subject to the provisions of this Chapter.

#### SECTION 235.340 - REMOVAL OF UNSAFE STRUCTURES, FILING STATEMENT, NOTICE AND HEARING REQUIREMENTS

Whenever the Enforcing Officer determines, following proper inspection, conditions exist to a structure rendering said structure dangerous or unsafe, he/she shall file with the Governing Body of the City of Junction City, Kansas, a statement in writing that the structure, describing the same and where located, is unsafe or dangerous and such condition needs to be rectified in accordance with this Article. The Governing Body shall by resolution fix a time and place at which the owner, his/her agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished. Such resolution shall be published once each week for two consecutive weeks on the same day of the week in the official city newspaper. A copy of said resolution shall be mailed by certified mail within three (3) days after publication to each owner, agent, lienholder and occupant at his/her or its last known place of residence and shall be marked "deliver to addressee only".

#### SECTION 235.350 - FINDINGS, RESOLUTION, CONTENTS AND NOTICE

On the date fixed for hearing or any adjournment thereof, the Governing Body of the City of Junction City shall hear all evidence submitted by the owner, his/her agent, lienholders of record and occupants having an interest in such structure as well as evidence submitted by the Enforcing Officer filing the statement and shall make findings by resolution and shall cause the resolution to be published once in the official city newspaper. If the Governing Body of the City of Junction City, Kansas, finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe and secure. Such resolution shall be mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which

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 with all costs associated therewith payable by the owner or subject to a lien on said property as provided herein.

#### SECTION 235.360 - OWNER SHALL FILL EXCAVATIONS

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 and sanitary condition. The owner shall fill all excavations to grade. The Enforcing Officer shall confirm these requirements have been met. .

#### SECTION 235.370 - REMOVAL OF UNSAFE STRUCTURES, CERTIFICATION OF SALVAGE SALE, REMOVAL COSTS ON TAX ROLLS, NO FUND WARRANTS, TAX LEVIES

A. If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the City may proceed to raze and remove such structure, make the premises safe and secure or let the same to contract. The City shall keep an account of the cost of such work to include cost of publication of notices and postage for mailing of notices and including an administrative charge of five hundred dollars (\$500.00), may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and making the premises safe and secure. All monies in excess of that necessary to pay such costs, after the payment of all costs, shall be paid to the owner of the premises upon which the structure was located.

B. The City shall give notice to the owner of such structure by certified mail of the total cost incurred by the City in removing such structure and making the premises safe and secure, including legal publication, mailing, and all administrative costs. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following receipt of such notice. If the cost is not paid within the thirty (30) day period and if there is no salvageable material or if monies 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. and amendments thereto are insufficient to pay the cost of such work, the balance shall be collected in the manner provided by K.S.A. 12-1,115 or shall be assessed as a special assessment 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 and the County Clerk shall extend the same on the tax rolls of the County against such lot or parcel of land. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, but only until the full cost and any applicable interest has been paid in full. Whenever any structure is removed from any premises under the provisions of this Chapter, the City Clerk shall certify to the County Appraiser that such structure, describing the same, has been removed.

C. If there is no salvageable material or if the monies 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. and amendments thereto are insufficient to pay the cost of the work, 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. Whenever no-fund warrants are issued under the authority of this act, the Governing Body of such City shall make a tax levy at the first (1st) tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in Article 19 of Chapter 79 of the Kansas Statutes Annotated and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940 and amendments thereto,

except they shall not bear the notation required by that Section and may be issued without the approval of the State Board of Tax Appeals. All monies received from special assessments levied under the provisions of this Section or from an action under K.S.A. 12-1,115, when and if paid, shall be placed in the General Fund of the City.

**SECTION 235.380 - REMOVAL OF UNSAFE STRUCTURES, IMMEDIATE HAZARD, ACTION TO PROTECT PUBLIC, NOTICE NOT REQUIRED, COST**

When, in the opinion of the Enforcing Officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by Section 235.370 of this Article.

**SECTION 235.385 - PENALTY**

Any person violating any of the provisions of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by section 100.090 of Article V, Chapter 100, Title I of this Code.

**SECTION 235.390 – APPEALS**

Any person aggrieved by a Resolution adopted by the Governing Body under this Article III may, within thirty (30) days after the adoption of such Resolution, may bring an action in the District Court of Geary County for an injunction restraining the enforcing officer from carrying out the provisions of the Resolution pending final disposition of the case.

**SECTION 235.395 – SCOPE OF ARTICLE III**

Nothing in this ordinance 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 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. 12-1750:1756.

**SECTION 2.** Chapter 560. Dangerous or Unsafe Structures, of Title V Building and Construction and all other ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

**SECTION 3.** This Ordinance shall be effective upon publication as required by law.

Passed and adopted by the Governing Body of the City of Junction City, Kansas this 17<sup>th</sup> day of April, 2018.

CITY OF JUNCTION CITY, KANSAS

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Pat Landes  
Mayor

ATTEST: (Seal)

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Shawna Settles, City Clerk