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ORDINANCE NO. 412

AN ORDINANCE ESTABLISHING MINIMUM HOUSING STANDARDS FOR DWELLINGS WITHIN THE CITY AND TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT

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

SECTION 1. PURPOSE. It is the purpose of this Ordinance to establish minimum standards of dwelling space, facility requirements and structural adequacy for dwellings within the city; to provide for administration and enforcement of the Ordinance and to specify authority and procedure to be followed in executing the powers established in this Ordinance.

SECTION 2. DEFINITIONS. The following terms whenever used or referred to in this article shall have the following meanings:

- (a) public officer – the Code Enforcement Officer or such other person(s) designated or appointed by the governing body to exercise the powers prescribed by this article;
- (b) residential structure or dwelling - any building or structure or part thereof, used and occupied for human habitation or intended to be used, and includes any appurtenances belonging thereto or usually enjoyed therewith;
- (c) nonresidential structure - any structure which is used for other than residential purposes, or a part of such structure, or a structure a part of which is used for other than nonresidential purposes and where applicable the premises on which such structures are situated;
- (d) dilapidation - a state of disrepair, decay or conspicuous lack of maintenance of exterior painting of a dwelling as to constitute a blighting influence on properties in the neighborhood;
- (e) owner - the holder of the recorded legal title to any dwelling with or without accompanying actual possession thereof;
- (f) parties in interest - all individuals, associations, or corporations who have interests of record in a dwelling.
- (g) habitable room - a room or enclosed floor space arranged for living, eating or sleeping purposes, not including bath or toilet rooms, laundries, pantries, foyers or communicating corridors;

(h) rooming house - a hotel or motel structure containing rooms rented either by the day, week or month, and similar structures with similar rooms designed for individual or nonfamily use and not containing cooking facilities.

SECTION 3. FINDING HAZARDS EXIST. It is found dwellings are unfit for human use or habitation due to conditions including the following without limitation:

- (a) Defects therein increasing any hazards of fire, accident or other calamities;
- (b) Lack of adequate ventilation;
- (c) Air pollution;
- (d) Inadequate light or sanitary facilities;
- (e) Dilapidation;
- (f) Disrepair;
- (g) Structural defects;
- (h) Uncleanliness;
- (i) Overcrowding;
- (j) Inadequate ingress and egress;
- (k) Dead and dying trees;
- (l) Unsightly appearances that constitute a blight to adjoining properties, the neighborhood or the city;
- (m) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof;
- (n) Vermin infestation;
- (o) Inadequate drainage;
- (p) Any violation of health, fire, building regulations or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements; rendering such structures unsafe or unsanitary or dangerous or detrimental to the health safety or morals or otherwise inimical to the welfare of the residents of the city.

SECTION 4. POWERS, PUBLIC OFFICER. The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article including the following powers in addition to others herein

granted:

- (a) to investigate the structure conditions in the municipality in order to determine which structures and dwellings therein are unfit for human use and habitation;
- (b) to administer oaths, affirmations, examine witnesses and receive evidence;
- (c) to enter upon premises for the purpose of making examinations: provided, that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- (d) to appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this ordinance;

SECTION 5. PUBLIC OFFICERS; DUTIES.

- (a) The City of Haviland Code Enforcement Officer is hereby designated and appointed as the public officer, additionally such other person(s) may also be designated or appointed by the governing body to exercise the powers prescribed by this article.
- (b) Whenever it appears to the public officer that any dwelling is unfit for human use or habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of the property, the operator of the dwelling, any parties in interest, and the occupant of the dwelling unit or the rooming unit concerned a notice of unfitness describing the unfit condition(s).
- (c) The notice shall provide that a hearing will be held before the public officer at a place therein fixed not more than 30 days after the serving of the notice; that the owner, operator, occupant, and parties in interest shall be given the right to file an answer to the notice and to appear in person, or otherwise, and give testimony at the place and time fixed in the notice; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

SECTION 6. ORDER. If, after notice and hearing, the public officer determines that the structure under consideration is unfit for human use or habitation the public officer shall state in writing their findings of facts in support of such determination and shall issue and cause to be served upon the owner of the property, the operator of the dwelling, any parties in interest, and the occupant of the dwelling unit or the rooming unit concerned an order which:

- (a) if the repair, alteration or improvement of the structure can be made at reasonable cost in relation to the value of the structure, requires the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human use or habitation;

(b) if the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requires the owner, within the time specified in the order, to remove or demolish such structure.

(c) In addition to the requirements set forth above in (a) and (b), that for any dwelling or dwelling unit condemned as unfit for human habitation, the Order shall provide that such structure be designated and placarded as such by the public officer and shall be vacated within a reasonable time as so ordered. 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 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 code.

SECTION 7. OWNER FAILS TO COMPLY.

(a) if the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed;

(b) if the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished;

(c) the amount of the cost of such repairs, alterations, or improvements or vacating and closing, or removal or demolition by the public officer, less salvage if any, shall be a lien against the real property upon which such cost was incurred and such lien shall be collected in the manner provided by in K.S.A. 12-1,115, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

SECTION 8. SERVICE. Notices or orders issued by the public officer pursuant to this

article shall be served upon those required by this ordinance either personally or by registered or certified mail. 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 or her authorized representative shall include in the record a statement as to why such posting was necessary.

SECTION 9. APPEAL AND REVIEW.

(a) Any person, firm, corporation, or other entity 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 10 days after receiving notice of the decision from the public officer, as provided in Section 6. 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 10 days before the hearing.

(e) Except where an immediate hazard exists, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) 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.

SECTION 10. MINIMUM STANDARDS. The minimum standards for dwellings and rooming houses shall be as follows:

(a) all dwellings shall have the following minimum facilities in satisfactory operating condition to wit:

(1) inside running water and an installed kitchen sink;

(2) inside bathing facilities which shall consist of an installed tub or shower;

(3) an installed bathroom; if such is built on a porch it shall be enclosed for privacy and from the weather. All bathrooms shall have running water and be connected to sewage disposal in accordance with other codes of the city;

(4) installed electric lighting facilities;

- (5) installed heating facilities in accordance with safety codes and practices;
 - (6) screens or other devices to effectively cover openings to the outside of the living and eating portions of such dwellings with mesh of such fineness as to prevent the entrance of flies, mosquitoes, and similar pests;
 - (7) such other facilities and standards as are required by ordinance and codes of the city.
- (b) rooming houses shall have the same minimum facilities in satisfactory operating condition as dwellings except as follows:
- (1) kitchen sink shall only be required in connection with cooking facilities;
 - (2) bathing facilities shall be provided in the form of a tub or shower for each eight occupants;
 - (3) a bathroom shall be provided for each six occupants and shall be separated from bathing facilities if more than four occupants are served by each.

SECTION 11. VIOLATIONS, PENALTIES. If any order issued and served in accordance with this article is not complied with within the time specified therein the dwelling with respect to which the order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person that has knowledge of the issuance of the order to occupy it as a human habitation, or use the dwelling or any part thereof, or to suffer or permit same, or any part thereof, to be occupied as a human habitation or used therefor, and any person violating this article or failing to comply therewith shall, upon conviction, be deemed guilty of a misdemeanor punishable with up to 30 days incarceration and a fine of up to \$500. Each day that such violation or failure to comply continues or is allowed to continue shall constitute and be separate and distinct offense.

SECTION 14. MISCELLANEOUS PROVISIONS. 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. The measures and procedures herein provided for do not supersede, and this article does not repeal, any measures or procedures which are provided by ordinance or state law for the elimination, repair, or correction of the conditions therein defined as referred to as objectionable, but the measures and procedures herein provided for shall be in addition thereto.

SECTION 15. EFFECTIVE DATE. This ordinance shall take effect and be in full force and effect from and after its passage, approval and publication once in the official City newspaper.

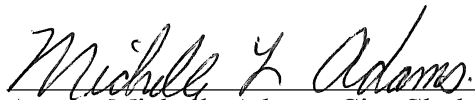
SECTION 16. SAVINGS CLAUSE. If any section, sentence, clause or phrase of this ordinance is invalid or unconstitutional, the remaining portions of this ordinance shall remain valid and forcible existence.

SECTION 17. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances enacted prior to this ordinance in conflict with this ordinance are hereby repealed.

Passed and adopted by the Governing Body of the City of Haviland this 9th day of July, 2025.



Brad Lingafelter, Mayor



Attest: Michelle Adams, City Clerk

