

(Published in the official county newspaper
on the 17th day of ~~June~~^{July}, 2013)

RESOLUTION NO. 23-2013

A RESOLUTION PROVIDING FOR REPAIR OR DEMOLITION OF CERTAIN
STRUCTURES; ASSESSING COSTS THEREOF.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CHEROKEE
COUNTY, KANSAS:

WHEREAS, the Board of County Commissioners of Cherokee County, Kansas,
upon due consideration of the matter finds that enacting the legislation herein would
provide for the determination of unsafe structures, provide a method for the repair or
demolition thereof, set forth a hearing procedure, provide for the assessment of the costs
thereof, thereby protecting the citizens of Cherokee County, Kansas from unsafe
structures.

WHEREAS, The governing body has found that there exist within the
unincorporated areas of the Cherokee County, Kansas, 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 county, 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. (K.S.A. 12-1751)

WHEREAS, the Board of County Commissioners of Cherokee County, Kansas,
meeting in regular session this 15th day of ~~June~~^{July}, 2013, does hereby resolve as follows:

Section 1. Definitions.

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

- (a) Enforcing officer means the code enforcement officer or his or her authorized
representative.
- (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.

(K.S.A. 12-1750)

Section 2. Enforcing officer; duties.

The enforcing 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 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 ordinance.

Section 3. 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.

Section 4. Same; notice.

The governing body upon receiving a report as provided in Section 4-604 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder 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. (K.S.A. 12-1752)

Section 5. 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 seven (7) days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only."

(K.S.A. 12-1752)

Section 6. 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 fact in support of such determination and shall cause the resolution to be published once in the official county newspaper and a copy 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 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 7. Duty of owner.

Whenever any structure within the county 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 8. 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 9. Same; 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 enforcing officer may proceed to make the site safe.

Section 10. Assessment of costs.

- (a) The cost to the county of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer, including making the site safe, shall be reported to the county clerk.
- (b) The county 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 30 days following receipt of the notice.

(c) If the costs remain unpaid after 30 days following receipt of notice, the county 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 proceeds of the sale of salvage or from the proceeds of any insurance policy in which the county 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 county clerk, at the time of certifying other county 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 county as other county taxes are collected and paid. The county 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) If there is no salvage material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the county 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.

(K.S.A. 12-1755)

Section 11. 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, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in Section 4-611. (K.S.A. 12-1756)

Section 12. Appeals from order.

Any person affected by an order issued by the governing body under this ordinance 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.

Section 13. 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 county 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 county 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 14. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this resolution, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution.

Section 15. Repeal. The provisions of any previously enacted resolution which are inconsistent herewith are hereby repealed.

Section 16. Effective Date. This resolution shall take effect and be in full force from and after its passage and publication once in the official county newspaper.

Adopted this 15th day of ^{July} ~~June~~, 2015, by the BOARD OF COMMISSIONERS OF CHEROKEE COUNTY, KANSAS.

Patrick W. Collins
County Commissioner



Richard J. Hilderbrand
County Commissioner



Charlie Napier, Chairman
County Commissioner

ATTEST:



Rodney Edmondson
County Clerk of Cherokee County.

Kansas

Resolution No. 23 - 2013

Prepared by:

Kevin Cure. County Counselor