

A RESOLUTION PROVIDING FOR THE REPAIR OR REMOVAL OF UNSAFE OR DANGEROUS STRUCTURES; ESTABLISHING PROCEDURES TO ENFORCE THE REPAIR OR REMOVAL OF SUCH STRUCTURES AND TO RECOVER COSTS FOR THE COUNTY DOING SO; AUTHORIZING IMMEDIATE REMOVAL WHEN SUCH STRUCTURES CONSTITUTE AN IMMEDIATE HAZARD; AND REPEALING RESOLUTION NO. R94-08-060.

WHEREAS, Miami County is a county municipality with the power of home rule, pursuant to K.S.A. 19-101 et seq.; and

WHEREAS, the Miami County Commission is the governing body of such municipality; and

WHEREAS, said Commission has found that there exists within the unincorporated areas of Miami County structures which are unfit for human use or habitation because of dilapidation; structural defects; damage by fire, wind or natural disaster; abandonment or other conditions that render such structures unsafe, unsanitary, attractive nuisances or otherwise inimical to the health, safety and welfare of the public.

NOW, THEREFORE, BE IT RESOLVED BY AFORESAID BOARD that the following resolution shall be adopted pursuant to the Commission's police power to protect the health, welfare and safety of the public and that said resolution shall apply to the unincorporated areas of Miami County, Kansas.

SECTION 1 — DEFINITIONS

For the purposes of this resolution, the following terms, phrases and terms shall have the following meanings:

- (A) **Abandoned Structure** shall mean any structure in which the owner, organization or person or persons exercising control over such property has ceased to reside within, utilize for any legal purpose, maintain and/or pay taxes for a minimum of one calendar year.
- (B) **Investigating Officer** shall mean any County Official, employee or authorized County representative.
- (C) **Structure** shall mean and include any building (stick built or manufactured), wall, superstructure, other structure which requires location on or in the ground, or is attached to something having a location on the ground or the debris of a structure.
- (D) **Unsafe of Dangerous Structure** shall mean any structure that is in such physical condition or disrepair so as to present a risk or danger to adjoining landowners and/or the public or is in violation of any building or sanitary codes to such an extent so as to be considered to be unsafe or dangerous pursuant to any Uniform Code adopted by Miami County.

SECTION 2 — POWER OF GOVERNING BODY

The governing body is hereby empowered to order the repair or removal of any structure within the unincorporated area of Miami County that, after a hearing, is found to be: unsafe, unfit for human habitation, dangerous, abandoned, a public nuisance and/or used for illegal purposes.

SECTION 3 — PUBLIC OFFICER DUTIES

An investigating officer is hereby authorized to exercise such powers necessary to carry out the purposes of this resolution, including the following:

- (A) Inspect any structure which appears to be unsafe, dangerous, unfit for human habitation, abandoned, an attractive nuisance and/or used for illegal purposes.
- (B) Have authority to enter upon the 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/she believes to be dangerous, unsafe, unfit for human habitation, abandoned, an attractive nuisance or used for illegal purposes to the County Administrator or his/her representative.
- (D) Receive reports and petitions from the public and investigate such in a timely manner.

SECTION 4 — INVESTIGATION

The investigating officer or officers, after personally viewing the property in question, shall determine if the property is unsafe, dangerous, unfit for human habitation, abandoned, an attractive nuisance or is being utilized for illegal purposes. If such is the determination, the investigating officer or officers shall file a written report of the findings with the County Administrator's Office. The report should contain, at a minimum, the name or names of the owners, renters or occupants of the property, the address of such individuals (to be determined from the address to which tax statements are sent), the date that the property was viewed, the findings of the investigation and a summary of what efforts have been made by the investigating officer/officers to correct the problem.

SECTION 5 — NOTICE

Upon receipt of the investigators report, the County Administrator or a designee shall promptly review the report and schedule the matter for a hearing before the County Commission if it is determined that sufficient grounds exist for a hearing. The County Commission shall fix a time and place for the hearing, at which time the owner, owner's agent, lienholder of record or occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

SECTION 6 — PUBLICATION

- (A) The resolution setting the matter for a hearing shall be published once each week for two consecutive weeks on the same day of the week in the official County newspaper. 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 working days of the first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "delivered to addressee only". For the purpose of this resolution, the address on file with the County Treasurer's Office for the mailing of tax statements shall be considered to be the last known address. If the owner of the property is unknown or can not be located, service will be deemed to have taken place upon publication of notice in the official County newspaper.

SECTION 7 — HEARING AND ORDER

- (A) A hearing shall be held the date and time stated in the published notice. The governing body shall consider the statements of the investigating officer or officers, the owner of record or his/her agent, lienholders of record and occupants of the structure. The governing body shall then determine if the structure is dangerous, unsafe, unfit for human habitation, abandoned, an attractive nuisance or is used for illegal purposes. Upon such findings, the governing body shall so state in an order and shall fix a reasonable time for commencement of either repair or removal of the structure. The statement shall also specifically state that if the owner of the structure fails to commence the necessary repairs or removal of the offending structure within the specified time frame or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and/or removed.
- (B) For the purposes of this resolution, 30 days shall be considered to be the minimum "reasonable time" for commencement of repairs or removal unless the structure is found by the governing body to be an immediate hazard. One year after commencement of repairs or three months after commencement of removal shall be considered to be the maximum period to diligently prosecute the

same unless an extension is granted by the governing body for good cause upon written application for such by the owner.

SECTION 8 — DUTY OF OWNER

Whenever any structure within the unincorporated area of Miami County is found to be dangerous, unsafe, unfit for human habitation, abandoned, an attractive nuisance or used for illegal purposes, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to promptly remove the same.

SECTION 9 — FAILURE TO COMPLY

- (A) If the owner fails to comply within the time specified by the governing body in its order to commence repair or removal of the structure, the governing body may cause the structure to be repaired, altered, improved, vacated, demolished and/or removed.
- (B) If the owner fails to diligently comply with the repair or removal of the structure after commencing such within the time frame specified by the Commission's order or by written agreement of the owner, the governing body may cause the structure to be repaired, altered, improved, vacated, demolished and/or removed.
- (C) Upon demolition or removal of the structure, the owner shall cause all debris to be removed, shall fill in a basement or other excavation, shall legally dispose of any hazardous materials remaining at the site, or take any other action to leave the premises in a safe condition. Failure by the owner to do so will cause public officials to take appropriate action to do so and to assess the costs thereof to the owner.

SECTION 10 — ASSESSMENT OF COSTS

- (A) The cost to the County of any repairs, alterations, improvements, vacating, removal or demolition by public officers, 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 repairing or 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 may sell any salvage for the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing or repairing 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 structure.
- (D) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the County Clerk shall, at the time of certifying other County taxes, certify the unpaid portion of the costs and extend the same on the County's tax roll.

SECTION 11 — IMMEDIATE HAZARD

When in the opinion of the governing body any structure is in such condition so as to constitute an immediate hazard requiring immediate action to protect the public or neighboring property, the governing body may direct public officers 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 10.

SECTION 12 — RECONSIDERATION AND APPEAL

- (A) Any person affected by an order issued by the governing body pursuant to this resolution may, within 10 days following service of the order, petition the governing body in writing to reconsider its order. A petition for reconsideration will not toll the time for filing an appeal or for complying with the order of the governing body.

(B) Appeals of the governing body's order may be made, by filing within 30 days of service of the order, a petition with the Miami County District Court.

SECTION 13 — SEVERABILITY

If a court of competent jurisdiction declares any section, subsection, paragraph, sentence, clause or phrase of this code to be invalid or unconstitutional, the remaining portion of this resolution shall remain in full force and effect; and to this end, the provisions of this code are hereby declared to be severable and shall be presumed to have been adopted knowing that the part or section declared invalid would be so declared.

THIS RESOLUTION SHALL BECOME EFFECTIVE UPON PUBLICATION IN THE OFFICIAL COUNTY NEWSPAPER.

ADOPTED THIS 01 DAY OF JANUARY, 2000