

ORDINANCE NO. 1104

AN ORDINANCE PERTAINING TO THE MINIMUM HOUSING

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DWIGHT,
MORRIS COUNTY, KANSAS:

Section 1. 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, she or they find that conditions exist in such structure which are dangerous or injurious to the health, and safety 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:

(i) Adequate ventilation.

(ii) Light

(iii) Cleanliness

(iv) 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

© 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 Procedure as outlined in section 8 are applicable hereto.

(e) Compliance Required before Reoccupancy. 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 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 ordinance.

(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 ordinance.

Section 2. **PUBLIC OFFICER** The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.

Section 3. **DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL)**. 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.

(b) Notice of Violation Procedures as outlined in section 8 are applicable hereto.

Section 4 **DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES**

(NON-RESIDENTIAL). (a) Certain Blighted Conditions covered in sections 1: 3 concerning buildings and premises which are on the tax roll of this city are applicable to all non-residential buildings and premises.

(b) Notice of Violation Procedures of notification shall follow those prescribed in section 8.

Section 5. Right of Entry The County Sheriff, County Health Officer or any member of the City governing Body and/or their authorized agent (s) are authorized to enter upon private property at reasonable hours for the purpose of removing the nuisance.

Section 6. Unlawful Interference It shall be unlawful for any person (s) to interfere with or to attempt to prevent an authorized representative from entering any property for the purpose of removing a nuisance.

Section 7. **INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES.**

(a) For the purpose of determining compliance with the provisions of this ordinance, the public officer or his or her 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 dwelling or buildings.

(b) The Public Officer is not limited by the conditions in the above paragraph (a) where new construction or vacant premises are involved and may make such inspections

at any appropriate time.

© The Owner, Operator, or Occupant of every dwelling, dwelling unit, and rooming unit shall give the public officer, or his or her 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 or her 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 ordinance or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this ordinance.

Section 8 NOTICE OF VIOLATIONS; PROCEDURES.

(a) Informal discussion.

Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this ordinance, 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 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 or her authorized representative shall include in the record a statement as to why such posting was necessary.

(6) Delivery shall be personal service or by certified mail, return receipt requested, delivered to addressee only. If service is made by registered or certified mail, the public officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing.

Section 9. PUBLIC OFFICER; AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety if the inhabitants of dwellings or dwelling units, the public 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.

Section 10. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized;

(a) To informally review all alleged violations as provided in section 8 prior to notification prescribed in section 8.

(b) To Take Action as prescribed in section 8.

© To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this ordinance as outlined in section 14.

(d) Discretionary Authority may be exercised in specific cases where variance from the terms of the ordinance as:

(1) Will not adversely affect the public health, safety or welfare if inhabitants of the city.

(2) Is in harmony with the spirit of this ordinance.

(3) Where literal enforcement of the ordinance will result in unnecessary hardship.

Section 11. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH.

At the time of the placarding and order to vacate specified by section 1 hereof, 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.

Section 12. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to comply with the order under section 11 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge 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 2 of the ordinance.

(b) The Cost of Demolition by a Public 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 or her 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 as a special assessment upon the lot 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.

© If the Structure is Removed or Demolished by the Public Officer he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sales shall be credited against the cost of 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.

Section 13. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY. (a)

Conflicts between the provisions of this ordinance and with a provision of any zoning, building, fire, safety or health ordinance or code of the city, existing on the effective date

of this article, the provision shall prevail which establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this ordinance.

Section 14. 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 10 days after receiving notice of the decision from the public officer, as provided in section 8. 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 as described in section 8 of this ordinance, 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 15. RIGHT OF PETITION. After exhausting the remedy provided in section 14, 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.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF DWIGHT, KANSAS THIS 20th DAY OF JUNE, 2005.

Tony Reynoso Mayor

Attest:

Jean Peterson City Clerk