

**AN ORDINANCE ADOPTING A MINIMUM STANDARD FOR COMMERCIAL AND
RETAIL BUILDINGS CODE.**

Ordinance No. G-07-01

Adopted by City of Coffeyville Board of Commissioners January 9, 2007

Effective January 12, 2007

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

Section 1. TITLE. This Ordinance shall be known as the "Minimum Standard for Commercial and Retail Buildings Code," and will be referred to herein as "this code" or "this ordinance."

Section 2. GENERAL. Buildings used, or intended to be used, in whole or in part, for commercial or retail purposes shall conform to the requirements of this ordinance, including but not limited to buildings located in the downtown business district.

Section 3. DECLARATION OF POLICY. The governing body declares the purpose of this ordinance is to protect, preserve, and promote public health and sanitation, promote the general appearance of structures subject to the provisions of this Code, protect the safety of the people, and promote the general welfare, by legislation which shall be applicable to all structures now in existence or hereafter constructed or developed and which legislation:

- (a) Establishes minimum standards for basic use of buildings for commercial or retail purposes, and for safe and sanitary maintenance;
- (b) Establishes standards concerning unsightly and blighted buildings;
- (c) Determines the responsibilities of owners, operators and occupants; and
- (d) Provides for the administration and enforcement thereof.

Section 4. DEFINITIONS. The following definitions shall apply to the enforcement of this ordinance:

- (a) Building shall mean any building used, in whole or in part, for commercial or retail purposes, or any vacant building zoned for such purposes.
- (b) Operator shall mean any person who has charge, care, ownership, or control of a building or part thereof.
- (c) Owner shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any building within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such

property within the true intent and meaning of this ordinance and shall be bound to comply with the provisions of this ordinance to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

- (d) Person shall mean and include any individual, firm, corporation, association or partnership.
- (e) Plumbing shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, waste pipes, water closets, sinks, lavatories, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.
- (f) Public Offense shall mean a violation of this Code that is punishable by a fine in an amount not to exceed \$500.00 or imprisonment for not more than thirty (30) days, or both such fine and imprisonment. Each day of a violation occurs shall constitute a separate offense.
- (g) Public Officer shall mean the Code Enforcement Officer for the City of Coffeyville, Kansas.
- (h) Refuse. For the purpose of this ordinance refuse shall include garbage, and trash.
 - i. Garbage shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.
 - ii. Trash (Combustible). For the purpose of this ordinance combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.
- (i) Trash (Non-Combustible). For the purpose of this ordinance non-combustible trash shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.
- (j) Structure shall mean anything constructed or erected on the ground or attached to something having a location on the ground.

- (k) Supplied shall mean paid for, furnished, or provided by or under the control of, the owner or operator.

Section 5. DUTY OF OCCUPANT OR OWNER OF COMMERCIAL AND RETAIL BUILDINGS.

- (a) It shall be the duty of the owner of every building, including all yards, lawns and courts adjacent thereto, to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by Sections 8 and 9. Nothing in the section shall be construed to give any owner the right or privilege of removing or changing the appearance of any tree or bush located adjacent to the sidewalk in the downtown business district.
- (b) It shall be the duty of each occupant of a building to keep in clean condition the portion of the property which he or she occupies and of which he or she has control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant, the owner shall be responsible for violations of this ordinance applicable to the premise.
- (c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.
- (d) Every owner of a building shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises.

Section 6. REGULATIONS FOR THE USE AND OCCUPANCY OF BUILDINGS.

No person shall conduct commercial or retail operations as owner-occupant or let to another for occupancy for commercial or retail operations, any building, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such buildings:

- (a) Entrances. There shall be for each building a primary access, which is safe and in good repair.
- (b) Plumbing. All plumbing, including but not limited to main and secondary water and sewer lines, water closets and other plumbing fixtures in every building shall be maintained in good working order.
- (c) Windows and Doors. Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.

Section 7. MAINTENANCE AND REPAIR. Every building shall comply with the City's mechanical, plumbing, electrical and building codes, and shall be maintained in good repair by the owner or agent and be fit for commercial or retail use. The roof shall be maintained so as not to leak and all rainwater shall be drained there from so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, windows, restroom facilities, exterior and interior walls, and ceilings shall be kept in good repair and usable condition. Exterior windows and doors shall not be boarded over in the absence of extraordinary circumstances, in the judgment of the Public Officer, and in no event for a period exceeding thirty (30) days; provided, however, that such windows and doors may be covered with exterior siding so long as the siding blends with the general appearance of the building and does not diminish the appearance of the building or surrounding buildings.

Section 8. DESIGNATION OF UNFIT BUILDINGS. The designation of buildings as unfit for commercial or retail use and placarding of such buildings shall be carried out in compliance with the following requirements:

- (a) A petition may be filed with the Public Officer, by at least three (3) residents of the city, charging that any building is unfit for commercial or retail use and, if the Public Officer's preliminary investigation reveals a basis for the charges, or if the Public Officer, on his or her own initiative, finds that a condition or conditions exist in any building which make the building unfit for commercial or retail use, the Public Officer shall follow the procedure set forth in Section 11 of this Ordinance.
- (b) Such Conditions may include the following without limitation:
 - i. Defects therein increasing the hazards of fire, accident, or other calamities;
 - ii. Lack of cleanliness or sanitary facilities;
 - iii. Dilapidation;
 - iv. Disrepair;
 - v. Structural defects;
 - vi. Inadequate ingress and egress; or
 - vii. Violation(s) of the City's mechanical, plumbing, electrical or building code(s).
- (c) Placarding - Order to Vacate. Any building condemned as unfit for commercial or retail use, and so designated and placarded by the public officer

shall be vacated within a reasonable time as so ordered.

- (d) Notice of Violation. Procedures as outlined in Section 11 are applicable hereto.
- (e) Compliance Required before Re-occupancy. No building which has been condemned and placarded as unfit for commercial or retail use shall again be used for commercial or retail use until written approval is secured from, and such placard is removed by the public officer.
 - i. The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
 - ii. It shall be unlawful for anyone to let, lease, occupy or permit the building, whether for a consideration or not, of any building so posted and any violation of this provision shall constitute a public offense within the meaning of this ordinance.
 - iii. It shall be unlawful for any person to deface or remove the placard from any building, which has been condemned as unfit for commercial or retail use, 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 9. DESIGNATION OF BLIGHTED PREMISES. The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

- (a) A petition may be filed with the Public Officer, by at least three (3) residents of the city, charging that the appearance of a building 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 reasons including, but not limited to, the conditions listed below. If the Public Officer's preliminary investigation reveals a basis for the charges, or if the Public Officer, on his or her own initiative, finds that the appearance of a building 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, the Public Officer shall follow the procedure set forth in Section 11 of this Ordinance. The conditions may include, but are not limited to:
 - i. Dead trees or other unsightly natural growth;

- ii. Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage;
- iii. Unsightly appearance that constitutes blight to the adjoining property, the neighborhood or the city;
- iv. Disrepair; or
- v. 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 12 are applicable hereto.

Section 10. INSPECTION OF BUILDINGS.

- (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 commercial and retail buildings, and the premises upon which the same are located. This requirement is applicable to existing buildings. Refusing to allow the public officer to make such inspections shall constitute a Public Offense.
- (b) The Public Officer is not limited by the conditions in the above paragraph (a) where new construction or vacant buildings are involved and may make such inspections at any appropriate time.
- (c) The Owner, Operator, and Occupant of every building shall give the public officer, or his or her authorized representative, during reasonable hours, free access to such building, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.
- (d) Every Occupant of a building shall give the owner thereof, or his or her authorized agent or employee, access to any part of such building, 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 11. 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:
- i. Shall be in writing.
 - ii. Shall list the violations alleged to exist or to have been committed.
 - iii. Shall provide a reasonable time, but not less than thirty (30) days in any event for the correction of the violations particularized.
 - iv. Shall be addressed to and served upon the owner of the property; the operator of the commercial or retail business; the occupant of the business concerned, if the occupant is or may be responsible for violation; and every mortgagee of record.
 - v. 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 building 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.
 - vi. Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by 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 12. PUBLIC OFFICER: AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this ordinance and of other laws, which regulate or set standards affecting buildings and premises.

Section 13. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:

- (a) To Informally Review all alleged violations as provided in Section 11(a) prior to notification prescribed in Section 11(b).
- (b) To Take Action as prescribed in Section 11(b).
- (c) 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 17.
- (d) Discretionary Authority may be exercised in specific cases where variance from the terms of the ordinance as:
 - i. Will not adversely affect the public health, safety or welfare of inhabitants of the city.
 - ii. Is in harmony with the spirit of this ordinance.
 - iii. Where literal enforcement of the ordinance will result in unnecessary hardship.

Section 14. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH.
At the time of the placarding and order to vacate specified by Section 8(c) 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 11.

Section 15. DEMOLITION OR REPAIRS BY PUBLIC OFFICER; PROCEDURE AND COSTS.

- (a) Failure to Comply with the order under Section 14 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 repaired, removed or demolished and the premises improved to eliminate the conditions outlined in Section 8 of the ordinance.
- (b) The Cost of Repair, Removal or 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 and the city clerk at the time 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.

- (c) If the Structure is Removed or Demolished by the Public Officer he or she may offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the 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 16. 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, existing on the effective date of this ordinance, the provision shall prevail which establishes the higher standard.
- (b) Conflicts between this ordinance with a provision of any other ordinance existing on the effective date of this ordinance which establishes a lower standard, the provisions of this ordinance 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 17. 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 ten (10) days after receiving notice of the decision from the public officer, as provided in Section 11(b). 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 11 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 18. RIGHT OF PETITION. After exhausting the remedy provided in Section 17, 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.