



EL DORADO

THE FINE ART OF LIVING WELL

City of El Dorado, KS
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TO: City Commission
FROM: Kristina Traina, Administrative Assistant
SUBJ: Special Session Meeting Agenda
DATE: September 30, 2020

A Special Session is scheduled for September 30, 2020 at 5:00 pm in the Commission Chambers at City Hall, 220 E. First Avenue. The following items will be presented:

I. ITEMS FOR PRESENTATION AND DISCUSSION

- a. Kansas Open Meetings Act Review
- b. Cameras in Parks
- c. Condemnation Process
- d. Condemnation Candidates
- e. Land Banking
- f. Lake Development

II. October 5, 2020 REGULAR AGENDA REVIEW (Subject to Change)

- a. Consent Agenda
 - i. City Commission Minutes
- b. Old Business
 - i. None
- c. New Business
 - i. 2021 Pay Plan
 - ii. Parental Leave Policy
 - iii. Shared Leave Policy
 - iv. Bereavement Policy
- d. Items for Discussion
 - i. None

III. REPORTS

- a. City Commission Reports
- b. City Manager's Report

TO: City Commission
FROM: Scott Rickard
SUBJ: Discussion of Condemnation Process - Dilapidated Homes List
DATE: September 23, 2020

Background:

In 2019 the City Commission initiated and completed the condemnation process for 5 homes. This led to the ultimate removal of structures which created blight and safety concerns for the neighborhoods that they surrounded.

Staff would like to look at an additional list of unsafe/unfit properties and hold a discussion with the City Commission regarding processes available.

Chapter 15.16 & 15.36 of the City of El Dorado Municipal Code is the enforcement instrument that City Staff along with the City Commission utilizes for the removal of uninhabitable structures. Along with currently adopted Municipal Code we can utilize the adopted 2006 International Property Maintenance Code. Attached you will find copies of those regulations for your review.

In an effort to address dangerous and unfit structures, staff has determined from our unsafe-unfit structures list, 5 homes that an ultimate resolution needs to be addressed.

712 W. Ash
723 S. Denver
307 S. Atchison
708 S. Star
805 S. Main

Attached you will find enforcement history for the 5 homes listed above.

15.36.100 - Unfit or unsafe conditions—Procedures.

Rules and regulations pertaining to unfit or unsafe conditions shall be as follows:

A. Complaint Notice and Hearing.

1. Whenever a petition is filed with the building official by residents of at least five different households within a one-thousand-foot radius, charging that any structure is unfit or unsafe for human use or habitation or whenever the building official on his own motion determines by preliminary investigation that a basis for such charge exists, he shall issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such structure, including persons in possession, a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the building official at a place therein stated, not less than ten days nor more than thirty (30) days after the serving of said complaint. The owner, mortgagee and parties in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building official.
2. If after such notice and hearing the building official determines that the structure under consideration is unfit for human habitation or is dangerous and unsafe, he shall state in writing, including the provisions for appeal therefrom, his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof, an order that the owner of said property shall within the time specified in the order, repair, alter or improve such structure to render it fit or safe for human use or habitation or shall vacate and close the structure until conformance with this chapter is made.
3. If the owner fails to comply with the order to repair, alter or improve or to vacate and close the structure within thirty (30) days from the date fixed by the building official, the building official may cause such structure to be vacated and closed.
4. If the owner fails to comply with the order to repair, alter or improve the structure within thirty (30) days from the time allowed by the building official, and the cost of repairs, alterations or improvements exceed fifty (50) percent of the value of the structure, the building official shall order the owner to remove or demolish the structure.
5. If the owner fails to comply with an order to remove or demolish the structure within thirty (30) days from the date of such order, the building official may cause said structure to be removed or demolished.
6. All costs incurred by the city in the razing and removal of such structure and the

making of the premises safe and secure shall be paid from moneys received from the sale of salvage therefrom and all moneys in excess of that necessary to pay such costs shall, after the payment of all costs, be paid to the owner of the premises upon which said structure was located; provided, that if there is no salvageable material or if moneys received from the sale of salvage is insufficient to pay the cost of such work, such costs or any portion thereof in excess of the amount received from the sale of salvage shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and may be financed until the assessment is paid, and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of said costs and the county clerk shall extend the same on the tax rolls of the county against said lot or parcel of land.

- B. Service of Complaint or Order. Complaints or orders issued by the building official pursuant to this chapter shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence and the building official shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once each week for two consecutive weeks in the official newspaper of the city. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the register of deeds of Butler County, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law; that the building official shall have the authority to release the complaint of record upon compliance with the order.

(Prior code § 5-1220)

15.36.110 - Placarding—Order to vacate—Condition for reoccupancy.

Notice to vacate a building and condition for reoccupancy shall be as follows:

- A. Placarding. The building official may cause to be placed on the main entrance of a building, a placard with the following words:
- "This building is unfit for human habitation or other use; the use or occupation of this building for human habitation or other use after _____(date) is unlawful and is prohibited" whenever the building official has: (1) issued an order, following the hearing as provided in this chapter, finding such building to be unfit or unsafe for human habitation, or (2) issued his order finding said building to be unfit or unsafe for human

habitation upon an emergency existing by reason of casualty, damage or loss to said building; provided, that the building official shall immediately serve a complaint and notice upon the appropriate person as provided in Section 15.36.100 of this chapter.

- B. Removal. No person shall remove, deface or damage the placard or other notice required hereunder from any dwelling, dwelling unit, rooming house, rooming unit or building. The building official shall cause the placard to be removed whenever the defects upon which the placarding action were based have been corrected or removed.
- C. Order to Vacate. Any dwelling, dwelling unit, rooming house, rooming unit or building determined to be unfit or unsafe for human habitation by the order of the building official and so designated and placarded by the building official, shall be vacated within a reasonable time as ordered by such official.
- D. Compliance Required Before Reoccupancy. No dwelling, dwelling unit, rooming house, rooming unit or building which has been found 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 building official. The building official shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated. It is unlawful for anyone to let, lease, occupy or permit the occupancy whether for a consideration or not, of any dwelling, dwelling unit, rooming house, rooming unit or building so posted and any violation of this provision shall constitute a misdemeanor within the meaning of this chapter.
- E. Right of Appeal. Any person affected by an order or notice relating to the condemning and placarding of any dwelling, dwelling unit, rooming house, rooming unit or building as unfit for human habitation may request and shall be granted a hearing on the matter before the housing board of appeals under the procedure set forth in Section 15.36.120 of this chapter. Said appeal shall stay the placarding and order the building official pending final hearing of the appeal board.

(Prior code § 5-1221)

15.16.010 - Definitions.

The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

" **Enforcing officer** " means the city manager of the city of El Dorado.

" **Structure** " means and includes any building, wall or other structure.

(Prior code § 5-701)

15.16.020 - Enforcing officer—Designation—Authority.

The city manager is designated as the "enforcing officer" charged with the administration of the provisions of KSA 12-1750 to 12-1756 and amendments thereto and the provisions of this chapter, which provisions are identical.

(Prior code § 5-702)

15.16.030 - Governing body—Powers.

The governing body shall have power to cause the repair or removal of, or to remove, any structure located within the city which may have become unsafe or dangerous.

(Prior code § 5-703)

15.16.040 - Statement—Resolution for hearing—Publication—Notice.

Whenever the enforcing officer shall file with the governing body a statement in writing that any structure, describing the same and where located, is unsafe or dangerous, the governing body shall by resolution fix a time and place at which the owner, his or her agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished. Such resolution shall be published once each week for two consecutive weeks on the same day of each week. At least thirty (30) days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder and occupant, at his or her or its last known place of residence and shall be marked "Deliver to Addressee Only"; provided, that if the owner is a resident in a county in which the city is located, the resolution shall be personally served within five days on such owner or delivered to their last known address, in lieu of mailing the same, and in this case at least one week shall elapse between the service on such owner and the date set for the hearing.

(Prior code § 5-704)

15.16.050 - Hearing—Findings and order by resolution—Publication and mailing.

On the date fixed for hearing or any adjournment thereof, the governing body shall hear all evidence submitted by the owner, his or her agent, lienholders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make findings by resolution. If the governing body shall find that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe and secure. Such resolution shall be published once in the official city paper 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.

(Prior code § 5-705)

15.16.060 - Duties of owner upon removing structure.

The owner of any structure, upon removing the same, shall fill any basement or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition. The sewer line shall be excavated at the property line and plugged in a manner prescribed by the enforcing officer.

(Prior code § 5-706)

15.16.070 - Failure of owner to repair or remove—Procedure—No-fund warrants and special assessments.

If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the city may proceed to raze and remove such structure, make the premises safe and secure, or let the same to contract. The city shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and making the premises safe and secure. All moneys in excess of that necessary to pay such costs shall, after the payment of all costs, be paid to the owner of the premises upon which the structure was located. If there is no salvageable material or if moneys received from the sale of salvage is insufficient to pay the cost of such work, such costs or any portion thereof in excess of the amount received from the sale of salvage shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land. Whenever any structure shall be removed from any premises under the provisions of this chapter, the city clerk shall certify to the county assessor that such structure, describing the same, has been so removed. If

there is no salvageable material or if the moneys received from the sale of salvage is insufficient to pay the costs of the work, such costs or any portion thereof in excess of that received from the sale of salvage may be financed, until the assessment is paid, out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of this chapter, the governing body shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in Article 19 of Chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by KSA 79-2940, except they shall not bear the notation required by the section and may be issued without the approval of the State Board of Tax Appeals. All moneys received from special assessments levied under the provisions of this section shall, when and if paid, be placed in the general fund of the city.

(Prior code § 5-707)

15.16.080 - Structures constituting immediate hazard—Special assessments.

When in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owner's agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by Section 15.16.070 of this chapter.

(Prior code § 5-708)

CHAPTER 1

SCOPE AND ADMINISTRATION

PART 1—SCOPE AND APPLICATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *International Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *operator* or *occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be

responsible for the maintenance of buildings, structures and *premises*.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Fuel Gas Code*, *International Mechanical Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's installation instructions.

102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2—ADMINISTRATION AND ENFORCEMENT

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 General. The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

103.2 Appointment. The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

103.4 Liability. The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

[JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Inspections. The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as

deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the *structure* or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such *structure* or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

104.4 Identification. The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

104.5 Notices and orders. The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

104.6 Department records. The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for

alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

105.3.2 Test reports. Reports of tests shall be retained by the *code official* for the period required for retention of public records.

105.4 Used material and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and *approved* by the *code official*.

105.5 Approved materials and equipment. Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. The *code official* shall serve a notice of violation or order in accordance with Section 107.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, cor-

rect or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 107 NOTICES AND ORDERS

107.1 Notice to person responsible. Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and

fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is

likely to partially or completely collapse, or to become *detached* or dislodged.

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to

post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

108.3 Notice. Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

108.4.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

108.6 Abatement methods. The *owner*, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

108.7 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. The *code official* shall order the *owner* of any *premises* upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occu-

paney, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

110.3 Failure to comply. If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 MEANS OF APPEAL

111.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

111.2 Membership of board. The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

111.2.1 Alternate members. The chief appointing authority shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate mem-

bers shall possess the qualifications required for board membership.

111.2.2 Chairman. The board shall annually select one of its members to serve as chairman.

111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

111.2.4 Secretary. The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

111.2.5 Compensation of members. Compensation of members shall be determined by law.

111.3 Notice of meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

111.4 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

111.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

111.6 Board decision. The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

111.6.2 Administration. The *code official* shall take immediate action in accordance with the decision of the board.

111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

111.8 Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

SECTION 112 STOP WORK ORDER

112.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to

the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

112.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

	Timeline of 712 W Ash Ave.		
	Owner David and Julie Hill		
Date:	Violations and registered letter sent	Outcome:	
5/12/2009	Tall grass and weed.	Letter signed 5/13/2009	
4/26/2011	Tall grass and weed.	Letter signed for 4/28/2011	
3/27/2012	Tall grass and weed.	Letter signed for 3/30/2012	
8/21/2013	Vehicles parked in backyard are not parked on a hard surface.		
	Non-registered vehicles parked in backyard. Trash and debris in back of pickup.		
	Old furniture and debris in backyard.	Letter signed for 8/26/2013	
5/1/2014	Tall grass and weed.	Letter signed for 5/5/2014	
7/29/2014	Trash and debris by curb. Tall grass and weeds.	Letter signed for 8/11/2014	
8/12/2014	Trash and debris by curb citation #109772c	Citation issued 8/12/2014	
9/8/2014	In full compliance with court case	Court Cost \$26.00	
5/15/2017	Tall grass and weed.	Letter signed for 5/17/2017	
8/8/2017	Trash and debris in backyard.	Letter signed for 8/17/2017	
8/31/2017	Metal, lumber and debris in backyard by porch. Citation #112256c	Citation issued 8/31/2017	
9/18/2017	Trash and debris in backyard. Court	Gave Court Date 10/16/2017	
10/16/2017	Trash and debris in backyard. Court	Gave Court Date 10/30/2017	
10/30/2017	In full compliance with court case	Court Cost \$90.00	
5/9/2018	Tall grass and weed.	Letter returned 5/14/2018	
12/30/2019	Limbs and debris on/by front porch. Limbs throughout side yard. Vacant	Letter signed for 1/2/2020	
	property needs to be secured to keep vagrants out. Board up all windows		
	and doors.		
1/14/2020	Limbs and debris on front porch. Limbs in side yard. Citation #114214c	Citation issued for 1/14/2020	
2/3/2020	Limbs and debris throughout property. Court	Gave Court Date 2/24/2020	
2/24/2020	Limbs and debris throughout property. Court	Gave Court Date 3/23/2020	
5/26/2020	Tall grass and weeds throughout property.	Letter signed 6/1/2020	
5/11/2020	Limbs and debris throughout property. Court	Gave Court Date 6/15/2020	
6/15/2020	Limbs and debris throughout property. Court	Gave Court Date 7/20/2020	
7/20/2020	Limbs and debris throughout property. Court	Did not appear in court.	
8/31/2020	Tall grass and weeds throughout property. Limbs and debris backyard. Court	Gave Court Date 9/14/2020	
8/3/2020	City Boarded the house up. There were vagrants living in structure with no utilities	Boarded house to keep vagrants out 8/3/2020	
8/3/2020	Unfit/Unsafe Structure completely remove. There is a neighborhood complaint	Letter signed for 8/14/2020	
	about this structure. There are vagrants living in structure with no utilities. There		

	are several structural issues. The foundation is crumbling. There are several crawl		
	spaces left open to harbor vermin and rodents. The roof is severaly dilapidated and		
	starting to collapse in. The siding, windows, eaves, and doors are dilapidated.		
	There are several plumbing and electrical issues. Inside structure is full of trash and feces.		
</			

[illegible][illegible]



	Timeline of 733 S Denver	
	Owner Giovanni De Oliveira Costa	
Date:	Violations and registered letter sent	Outcome:
8/6/2009	Tall grass and limbs.	Letter signed for 8/10/2009
4/20/2010	Tall grass.	Letter signed for 4/22/2010
4/26/2011	Tall grass	Letter signed for 5/2/2011
3/26/2012	Tall grass. Trash on front porch.	Letter signed for 4/9/2012
1/3/2013	Not properly registered vehicle in driveway. Trash and debris on front porch. Debris in driveway.	Letter signed for 1/5/2013
3/20/2013	Camper being used as living quarters. Inoperable vehicle parked in driveway.	Letter signed for 3/20/2013
3/19/2013	Refrigerator and debris in driveway. Metal and debris in backyard. Citation #108905c	Citation issued 3/19/2013
4/8/2013	In full compliance with court	Court Cost \$60.00
4/22/2014	Trash and debris on front porch. Debris throughout property and being stored in a trailer	Citation issued 4/22/2019
	citation #109686c. Trailers parked in side yard is not parked on a hard surface. Citation #109687c.	
5/12/2014	In full compliance with court	Court Cost \$52.00
2/15/2016	Trash and debris on front porch. Trash and debris in backyard. Vehicle parked in backyard is not parked on a hard surface. Storing trash and debris in a trailer.	Letter signed for 2/22/2016
4/24/2017	Tall grass and weeds. Trash and debris in driveway.	Letter signed for 5/1/2017
8/30/2017	Unfit/Unsafe Structure remove completely or significant repairs. The fascia and soffits need to be replaced. The birds and wildlife can access the attic of the structure. There are several spots that are bare wood and is dilapidated. The back of the structure needs to be resided. The front porch needs to be cleaned off and free of debris. The backyard is full of debris and tall weeds. Inoperable vehicle parked in driveway. There are several electrical and plumbing issues with the structure.	Letter signed for 9/11/2017
5/8/2018	Tall grass and weeds throughout the property.	Letter signed for 5/12/2018
9/24/2018	Property changed hands to Giovanni De Oliveira Costa	Property sold 9/24/2018
11/1/2018	Unfit/Unsafe Structure remove completely or significant repairs. The fascia and soffits need to be replaced. The birds and wildlife can access the attic of the structure. There are several spots that are bare wood and is dilapidated. The back of the structure needs to be resided. The front porch needs to be cleaned off and free of debris. The backyard is full of debris and tall weeds. Inoperable vehicle parked in driveway. There are several electrical and plumbing issues with the structure. Will need to get a permit to do work on the structure.	Letter signed for 11/3/2018
8/22/2019	Tall grass and weeds throughout the property.	Letter signed for 8/26/2019
3/10/2020	Camper being used as living quarters. The building permit has expired. Unfit/Unsafe structure	

[illegible]



	Timeline of 307 S Atchison	
	Owner Michael Streif Deceased and Brandon Streif	
Date:	Violations and registered letter sent	Outcome:
4/24/2015	Tall grass and weeds. Vehicle parked in front yard is not parked on a hard surface.	Letter signed 4/22/2015
5/2/2017	Container left by curbs. Citation #111689c	Citation issued 5/2/2017
8/8/2017	Lumber, appliance, and debris in driveway and backyard.	Letter signed for 8/17/2017
8/31/2017	Trash, metal, lumber, and debris throughout driveway and side yard. Citation #112253c	Citation issued 8/31/2017
9/15/2017	Camper being used as living quarters. Camper is not parked on a hard surface in backyard.	Letter signed for 9/16/2017
9/18/2017	Trash and debris throughout the property. Court	Gave Court Date 10/30/2017
10/30/2017	Trash and debris throughout property. Court	Gave Court Date 11/27/2017
11/27/2017	Trash and debris throughout property. Court	Gave Court Date 12/18/2017
12/18/2017	In minimal Compliance with court.	Court Cost \$90.00
9/24/2020	Citation # 112978c issued no permit for shed or building being built in backyard.	Citation issued 9/24/2020
9/24/2020	Lumber and debris scattered throughout the property. Citation #112979	Citation issued 9/24/2020
10/15/2018	Trash and debris throughout property court	Gave Court Date 10/29/2018
10/29/2018	Trash and debris throughout property court	Gave Court Date 11/26/2018
11/26/2018	Trash and debris in backyard. Court	Gave Court Date 12/10/2018
12/10/2018	Trash and debris throughout property court	Gave Court Date 12/17/2018
12/18/2018	Non-registered inoperable vehicle parked in driveway. Trash and debris throughout	Letter signed for 12/21/2018
	property. Overflowing trash containers.	
12/17/2018	Trash and debris throughout property court	Gave Court Date 1/7/2019
1/14/2019	Trash and debris throughout property court	Gave Court Date 1/28/2019
1/28/2019	Trash and debris throughout property court	Gave Court Date 2/25/2019
2/25/2019	Trash and debris throughout property court	Gave Court Date 3/18/2019
3/11/2019	Trash and debris throughout property court	Gave Court Date 3/18/2019
3/18/2019	Trash and debris throughout property court	Gave Court Date 4/15/2019
4/15/2019	Trash and debris throughout property court	Gave Court Date 5/6/2019
5/6/2019	Trash and debris throughout property court	Gave Court Date 5/20/2019
5/20/2019	Old furniture and debris being stored on a trailer. Trash and debris throughout	
	driveway. Citation #113516c	Citation issued 5/20/2019
6/10/2019	Trash and debris throughout property court	Gave Court Date 6/17/2019
6/17/2019	Trash and debris throughout property court	Gave Court Date 7/8/2019
5/30/2019	Unfit/Unsafe Structure. There are several electrical hazard throughout the house.	
	The ceilings are falling in and cracking in a few rooms of the house.	





	Timeline of 708 S Star St.	
	Owner Marvin Evans	
Date:	Violations and registered letter sent	Outcome:
5/20/2004	Tall grass and weeds. Trash and debris scattered throughout property	Re-inspection due 5/21/2004
7/7/2004	Trash, debris, vehicle parts, propane bottles, and junk throughout the property.	Re-inspection due 6/25/2004
7/7/2004	Hazardous premises citation #81230	Citation issued 7/7/2004
9/26/2004	Trash and debris scattered throughout the property.	
10/1/2004	Granted an extension to clean up the property.	
12/4/2004	Re-inspection for court	
2/28/2005	Re-inspection for court	
4/18/2005	Re-inspection for court	
6/5/2005	Re-inspection for court	
11/28/2005	Re-inspection for court	
12/6/2006	Trash and debris throughout property.	Letter signed for 12/26/06
9/4/2007	Trash and debris scattered throughout the property.	Letter signed for 9/21/2007
6/27/2008	Trash and debris scattered throughout the property.	Letter signed for 7/18/2008
3/6/2009	Trash and debris in front yard. Trailer storing debris in backyard. Debris scattered through.	Letter signed for 3/7/2009
	Vehicle parked in backyard is not parked on a hard surface.	
3/31/2009	Trash and debris scattered throughout the property. Citation#106492	Citation issued 3/31/2009
5/11/2009	Trash and debris scattered throughout the property. Court	Gave Court Date 6/15/2009
6/15/2009	Trash and debris scattered throughout the property. Court	Gave Court Date 7/27/2009
7/27/2009	Trash and debris scattered throughout the property. Court	Gave Court Date 8/27/2009
8/31/2009	In full compliance with Court.	Court cost \$69.50
1/20/2010	Tires, trash and debris in front yard. Storing debris in a trailer in backyard. Trash and debris scattered throughout backyard.	Letter signed for 1/22/2010
10/28/2010	Storing trash and debris in a trailer. Trash and debris scattered throughout the backyard	Citation issued 10/28/2010
	Citation #107333c	
11/15/2010	Trash and debris scattered throughout the backyard. Court	Gave Court Date 2/14/2011
2/14/2011	Trash and debris scattered throughout the backyard. Court	Gave Court Date 3/28/2011
3/28/2011	In full compliance with Court.	Court Cost \$ 60.00
6/14/2011	Not properly registered pickup. Citation #107619c Trash and debris throughout backyard	Citation issued 6/14/2011
	Citation #107618c	
7/11/2011	In full compliance with Court.	Court Cost \$60.00
9/17/2012	Container left in street citation#108552c	Citation issued 9/17/2012

10/1/2012	In full compliance with Court.	Court Cost \$30.00
12/19/2012	Trash and debris by curb citation #108736c	Citation issued 12/19/2012
12/19/2012	Trash and debris throughout the property. Citation #108737c	Citation issued 12/19/2012
1/7/2013	Trash and debris scattered throughout property. Court	Gave Court Date 2/11/2013
2/11/2013	Trash and debris scattered throughout property. Court	Gave Court Date 2/25/2013
2/25/2013	Trash and debris scattered throughout property. Court	Gave Court Date 3/25/2013
3/25/2013	In full compliance with Court.	Court Costs \$60.00
8/11/2014	Tall grass and weeds.	Letter signed for 8/29/2014
6/8/2015	Tall grass and weeds.	Letter signed for 6/26/2015
9/8/2015	Vehicles and trailers parked in backyard are not parked on a hard surface. Citation#110440c	Citation issued 9/8/2015
9/28/2015	In full compliance with Court.	Court Costs \$70.00
8/1/2017	Tall grass and weeds. Storing debris in back of pickup. Debris throughout backyard.	Letter signed for 8/18/2017
12/21/2017	Storing trash and debris in back of pickup that is parked on the street.	Letter signed for 1/5/2018
5/2/2018	Unfit/unsafe structure remove completely. The roof is caving in and parts of the roof has fallen into the structure. The structure is severely dilapidated and deteriorating. It has inadequate weather proofing on the roof and siding.	Letter signed for 5/18/2018
6/19/2018	Hazardous Conditions. Structure is severely dilapidated. The roof has fallen in on parts of the structure siding is missing on several parts. Citation#112602c	Citation issued 6/19/2018
8/13/2018	Hazardous Structure Court	Gave Court Date 8/13/2018
8/13/2018	Hazardous Structure Court	Gave Court Date 9/10/2018
9/10/2018	Hazardous Structure Court	Gave Court Date 10/1/2018
10/1/2018	Hazardous Structure Court	Gave Court Date 12/17/2018
12/17/2018	Hazardous Structure Court	Gave Court Date 1/28/2019
1/28/2019	Hazardous Structure Court	Gave Court Date 2/11/2019
2/11/2019	Hazardous Structure Court	Did not appear in court.
6/11/2019	Hazardous Structure Citation #113557c	Citation issued 6/11/2019
7/1/2019	Hazardous Structure Court	Did not appear in court.
8/5/2019	Hazardous Structure Citation #113670c	Citation issued 8/5/2019
8/26/2019	Hazardous Structure Citation #113730c	Citation signed for 9/4/2019
9/16/2019	Hazardous Structure Court	Did not appear in court. Warrant was issued.
1/7/2020	Hazardous Structure Court Citation#114190c	Citation signed for 1/13/2020
2/3/2020	Hazardous Structure Court	Did not appear in court.
3/2/2020	Hazardous Structure Court	Did not appear in court.
5/5/2020	Tall grass and weeds.	Letter signed for 5/12/2020





The Legal Basis for a Land Bank in Kansas

A Discussion of the Legal Requirements and Sample Language

MAY 2015





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Local governments across Kansas are interested in ways to manage vacant and derelict land, perhaps even converting that land into sites dedicated as community gardens or open space. In 1996 and 2009, the Kansas Legislature addressed this by authorizing cities to create land banks via ordinance¹ and authorizing counties to create land banks via resolution.² This resource discusses the legal requirements set forth by state law and provides sample language to help cities and counties draft an ordinance or resolution establishing a land bank.

Drafting the ordinance or resolution is just an initial step in implementing a land bank in your community. The ordinance or resolution will set forth the legal requirements as well as guide the land bank throughout its initial decision-making. That said, the resolution or ordinance establishing a land bank should eventually be supplemented by bylaws, policies and procedures, and other guiding documents.

What is a land bank?

A land bank is an entity established to manage and dispose of distressed property for the purpose of stabilizing neighborhoods and encouraging the reuse or redevelopment of property.³ The land bank, as an entity, can purchase and obtain properties that have been abandoned or foreclosed upon, and maintain and facilitate the redevelopment, marketing, and/or disposal of the properties.

Additionally, land banks can acquire properties through donation or purchase.⁴ Land banks can exist as independent public legal entities if created as such. They can also be nongovernmental, nonprofit organizations. This resource focuses on land banks that are created by the city or county as a public entity under Kansas law.

Do land banks only acquire buildings and houses?

No. In fact, some land banks will only acquire land if it is vacant — meaning, no house, building, or structure on the property.

EXAMPLE: The Hutchinson Land Bank currently only acquires vacant properties because of the cost of liability insurance and the cost of maintenance if there were structures on the properties of interest.

Legal requirements

As mentioned above, Kansas law grants cities the authority to establish land banks by adopting an ordinance⁵ and counties the authority to establish land banks by adopting a resolution.⁶ While the land bank law governing cities and the land bank law governing counties are in two separate sections of the Kansas Statutes, the content is extremely similar — in fact almost all of the language governing land banks are verbatim regardless if the land bank is established by a city or county. Therefore, the legal requirements discussed below are required by land banks established by both cities and counties.

The Kansas Legislature has set several requirements for the establishment of a city or county land bank that should be addressed within the ordinance or resolution, including:

- The land bank must be governed by a board of trustees;⁷
- Members of the board of trustees cannot receive compensation (but may be paid their necessary expenses for attending meetings and carrying out their duties);⁸
- The city may dissolve the land bank by ordinance;⁹
- The county may dissolve the land bank by resolution;¹⁰
- The board of trustees must keep accurate accounts of all receipts and disbursements;¹¹
- All records and accounts must be available to public inspection;¹²
- The land bank must make an annual report to the Governing Body, which includes an inventory of all property held by the land bank;¹³
- The board of trustees can sue and be sued; enter into contracts; appoint and remove staff; and¹⁴
- The board of trustees may accept or refuse to accept any property.¹⁵

About the sample language

The sample language accompanying this resource includes all of the statutory requirements under Kansas law. Due to the nature of the state statutes governing land banks, the sample language is largely composed of language directly from the state statutes.

While the state statutes provide a general framework for how the land bank should operate, there are several considerations a city or county can make to best structure the land bank for that community's needs (i.e., who should be a member of the board of trustees). Therefore, the sample language flags provisions that can be tailored (and, in fact, have already been tailored by several different communities in Kansas) to ensure the land bank will operate in a manner most useful for the city or county.

This sample language is based on applicable Kansas land bank laws, as well as land bank ordinances, resolutions, and resources from land banks in Overland Park, Kan.; Hutchinson, Kan.; Wyandotte County, Kan.; Lyons, Kan.; Olathe, Kan.; Greensburg, Kan.; Junction City, Kan.; Kansas City, Mo.; and Cuyahoga, Ohio.

Are there any additional land bank resources?

Frank Alexander's *LAND BANKS AND LAND BANKING* (June 2011) covers an array of land bank issues, including financing, governance, and administrative policies. This resource is available at http://www.communityprogress.net/filebin/Land_Banks_and_Land_Banking_Book.pdf.



Sample language and guidance

SAMPLE ORDINANCE/RESOLUTION NO. XXXX ESTABLISHMENT OF LAND BANK

BE IT ORDAINED BY THE GOVERNING BODY OF XXXX, KANSAS:

Section 1. Purpose.

The purpose of creating the Land Bank is to implement the authority granted to the Governing Body, by (K.S.A. 12-5901 et seq. or K.S.A. 19-26,104 et seq.) to establish or dissolve a Land Bank by (Ordinance or Resolution). The Land Bank will be a quasi-governmental entity with the primary responsibility and authority for acquiring, maintaining, and selling abandoned property in order to address the problems and issues created by these distressed properties. The Land Bank shall also be responsible for the acquisition of title to real estate, eliminate liabilities for said real estate, and provide proper disposition of acquired property.¹⁶

MORE ON PURPOSE STATEMENTS AND PROVISIONS

While there are several provisions required by Kansas law that direct the responsibilities of the land bank, adding in supplementary provisions addressing the land bank's objectives and goals is a great way to tailor the ordinance or resolution to advance the needs of your community.

Example: Lyons, Kansas

"The Goal of the Lyons Land Bank is to return tax delinquent property to productive benefiting the community. When considering proposals to the Land Bank, preference will be given to projects that support home ownership, improve the neighborhoods and otherwise advance the economic and social interests of the City of Lyons, Kansas, and its residents."¹⁷

Example: Kansas City, Missouri

The creation of the Land Bank is intended to help achieve:

1. The elimination of blight and the enhancement of neighborhood vitality and stability;
2. Space for use as urban agriculture, community gardens, or other similar uses consistent with healthy eating by residents, including restoring ground through alternative vegetative cover to build back the soil for future use for food production;
3. Public spaces and places for parks, green spaces, and other public purposes; and
4. Use as wildlife conservation areas.¹⁸

Section 2. Definitions.

- a. “City” means the City of XXXX, Kansas.
- b. “County” means the County of XXXX, Kansas.
- c. “Board” means the board of trustees of the Land Bank established pursuant to this (Ordinance or Resolution).
- d. “Bank” means the Land Bank established pursuant to this (Ordinance or Resolution).
- e. “Governing Body” means the Governing Body of the (City or County).
- f. “Municipality” means any city, county or other political or taxing subdivision which has the power to levy special assessments.

Section 3. Land Bank Board of Trustees; Appointment, Terms and Dissolution

Section 3.1. There is hereby established a Land Bank Board of Trustees (“Board”). The Board shall be composed of XXXX voting members.

MORE ON THE BOARD OF TRUSTEES

Several Land Bank Board of Trustees in Kansas are comprised of City Council members or County Commissioners rather than independently appointed individuals. However, there are endless ways the membership can be determined. Please consider whether your City Council members or County Commissioners have the capacity and expertise to lead the Land Bank. Utilizing independent appointments is a great way to utilize skill sets from community members that have knowledge in property, redevelopment, taxes, etc.

Potential Board of Trustee members include individuals with experience in: city planning; economic development; construction; taxes; and/or finances.

Example: Overland Park, Kansas

“The Board shall be composed of the entire membership of the Governing Body of the City, ex officio, who shall be voting members, and one additional member appointed by the Mayor who shall be a non-voting member and who shall be a City Staff member.”¹⁹

Example: Hutchinson, Kansas

“The Board shall be composed of two of the voting members from the Hutchinson Housing Commission and three residents with expertise in land development, construction, development finance, real estate, sales or marketing, real estate law, neighborhood growth and development, or expertise related to the responsibilities of Land Bank operation.”²⁰

Section 3.2. The Governing Body may appoint the Board. Vacancies on the Board shall be filled by appointment for the unexpired term.

Section 3.3. The term of office for the Board members shall be for a period of **XXXX** years.

USING STAGGERING TERMS

Staggering terms or differing lengths of appointments help prevent total loss of expertise and leadership in any given year and safeguard against political whims of the appointing body.

Section 3.4. The Land Bank staff shall consist of the **XXXX** staff.

MORE ON STAFFING THE LAND BANK

It is important to determine how the Land Bank will be staffed. The staff can be a conduit between the Governing Body, the community, and the Land Bank.

Example: Junction City, Kansas, and Hutchinson, Kansas

“Primary staff support to the Board will be provided by the City Manager or his designee. City staff will provide technical and professional support for Land Bank operations; additional support may be contracted as deemed necessary.”^{21,22}

Example: Greensburg, Kansas

“The land bank staff shall consist of the administrative staff of the City of Greensburg, Kansas.”²³

Section 3.5. The Bank may be dissolved by (Ordinance or Resolution) of the Governing Body. In such case, all property of the Bank shall be transferred to and held by the (City or County) and may be disposed of as otherwise provided by law.

Section 4. Land Bank Board of Trustees; Powers and Duties

Section 4.1. The Land Bank Board of Trustees shall have the following powers and duties:

- a. To sue and be sued;
- b. To enter into contracts;
- c. To appoint and remove staff and provide for the compensation thereof;
- d. To acquire, by purchase, gift or devise, and convey any real property, including easements and reversionary interests, and personal property subject to the provisions of this (Ordinance or Resolution) and state law.
- e. To rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank;
- f. To exercise any other power which may be delegated to the Bank by the Governing Body; and
- g. To exercise any other incidental power which is necessary to carry out the purposes of the Land Bank, this (Ordinance or Resolution), and state law.

Section 4.2. Any property acquired by the XXXX City, XXXX County, or any other taxing subdivision within the XXXX City or XXXX County may be transferred to the Bank. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this (Ordinance or Resolution) or state law. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirement and shall be exempt from any provision of law requiring a public sale.

Section 4.3. The fee simple title to any real estate which is sold to XXXX County in accordance with the provisions of K.S.A. 79-2803 and 79-2804,²⁴ and amendments thereto, and upon acceptance by the Board may be transferred to the Bank by a good and sufficient deed by the county clerk upon a written order from the Board of County Commissioners.

Section 4.4. The Board shall assume possession and control of any property acquired by it under this (Ordinance or Resolution) or state law, and shall hold and administer such property. In the administration of property, the Board shall:

- a. Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;
- b. Compile and maintain a written inventory of all such property. The inventory shall be available for public inspection and distribution at all times;
- c. Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;
- d. Plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;
- e. Establish and maintain records and accounts reflecting all transactions, expenditures and revenues relating to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and
- f. Thirty days prior to the sale of any property owned by the Bank, publish a notice in the official (City or County) newspaper announcing such sale.

Section 5. Land Bank; Operational Requirements

Section 5.1. The Bank shall be subject to the provisions of the cash-basis law, K.S.A. 10-1101 et seq., and amendments thereto.

Section 5.2. The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the state. No budget shall be adopted by the Board until it has been submitted to, reviewed and approved by the Governing Body.

Section 5.3. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

Section 5.4. All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216 et seq., and amendments thereto.

Section 5.5. Any moneys of the Bank which are not immediately required for the purposes of the Bank shall be invested in the manner provided by K.S.A. 12-1675, and amendments thereto.

Section 5.6. The Bank shall make an annual report to the Governing Body on or before January 31 of each year, showing receipts and disbursements from all funds under its control and showing all property transactions occurring in each year. Such report shall include an inventory of all property held by the Bank. A copy of such inventory also shall be published in the official (City or County) newspaper on or before January 31 of each year.

Section 5.7. The Bank shall be subject to the statutory requirements for the deposit of public money as provided by K.S.A. 9-1401 et seq. and the amendments thereto.

Section 5.8. The Board, without competitive bidding, may sell any property acquired by the Board at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants deemed necessary or appropriate to assure the property's effective reutilization. The sale of any real property by the Board, under the provisions of this (Ordinance or Resolution) or state law, on which there are delinquent special assessments to finance public improvements shall be conditioned upon the approval of the Governing Body.

Section 5.9. The Board, for purposes of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank.

Section 5.10. Until sold or otherwise disposed of by the Bank and except for special assessments levied by the (City or County) to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the state and any other political or taxing subdivision of the state.

Section 5.11. Except for special assessments levied by a municipality to finance public improvements, when the Board acquires property pursuant to this (Ordinance or Resolution) and state law, the county treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.

Section 5.12. Property held by the Bank shall remain liable for special assessments levied by a municipality to finance public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.

Section 5.13. The Governing Body of any municipality which has levied special assessments on property acquired by the Bank may abate part or all of the special assessments, and the Bank and the Governing Body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of the abatement.

MORE ON PROPERTY TAXES & SPECIAL ASSESSMENTS

Property taxes are used to fund cities, unified school districts, and community colleges.²⁵ Most local governments in Kansas have the power to impose property taxes.²⁶ Many properties being obtained by Land Banks are delinquent properties, including properties with tax liens. Under Kansas law, the county treasurer is required to remove all taxes, assessments, charges, penalties, and interest that are due and payable on the property at the time the Land Bank acquires the property.²⁷ This means that properties held by a Land Bank are no longer burdened by past due ad valorem (property) taxes. This allows once very undesirable land and properties to become much more attractive to potential buyers and uses.

“Special assessments are a means of financing public improvements such as sidewalks, streets, waterlines, and sewers that add value to land.”²⁸ Kansas law does not specifically abate the remaining special assessment obligations on the properties held by the Land Bank.²⁹ Instead, Kansas law grants the Governing Body that levied the special assessments on the property discretion to abate part, all, or none of the special assessments.³⁰

Section 5.14. Any moneys derived from the sale of property by the Bank shall be retained by the Bank for the purposes and operations thereof; provided, however, that the Board may use all or any part of the proceeds from the sale to reimburse the (City or County) for delinquent special assessments due on such property.

Section 6. Land Bank; Organization

Section 6.1. The Board shall select annually, from its membership, a chairperson, a vice-chairperson and a treasurer. The treasurer shall be bonded in such amounts as the Governing Body may require.

Section 6.2. The Board may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

Section 6.3. The Board shall fix the time and place at which its meetings shall be held. Meetings shall be held within **XXXX** and shall be subject to the provision of K.S.A. 75-4317 et seq., and amendments thereto.

Section 6.4. A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present.

Section 6.5. The members of the Board shall be subject to the provisions of the laws of the state of Kansas which relate to conflicts of interest of county officers and employees, including, but not limited to, K.S.A. 75-4301 et seq., and amendments thereto.

Section 6.6. Subject to the provisions of K.S.A. 75-6101 et seq., and amendments thereto, if any action at law or equity, or other legal proceeding, shall be brought against any member of the Board for any act or omission arising out of the performance of duties as a member of the Board, such member shall be indemnified in whole and held harmless by the Board for any judgment or decree entered against such member and, further, shall be defended at the cost and expense of the Bank in any such proceeding.

Section 7. Effective Date

This (Ordinance or Resolution) shall take effect and be in force from and after its passage and publication once in the official (City or County) newspaper.

PASSED BY THE GOVERNING BODY, this ____ day of _____, 20____,
for the XXXX of XXXX, Kansas.

Clerk



Endnotes

- ¹ KAN. STAT. ANN. § 12-5902(a).
- ² KAN. STAT. ANN. § 19-26,104(a).
- ³ Please note, this is not a legal definition. Kansas law does not provide a substantive legal definition of the term “land bank.”
- ⁴ KAN. STAT. ANN. §§ 12-5905(d); 19-26,107(d).
- ⁵ KAN. STAT. ANN. § 12-5902(a).
- ⁶ KAN. STAT. ANN. § 19-26,104(a).
- ⁷ KAN. STAT. ANN. §§ 12-5902(b); 19-26,104(b).
- ⁸ KAN. STAT. ANN. §§ 12-5902(c); 19-26,104(c).
- ⁹ KAN. STAT. ANN. § 12-5902(d).
- ¹⁰ KAN. STAT. ANN. § 19-26,104(d).
- ¹¹ KAN. STAT. ANN. §§ 12-5903(c); 19-26,105(c).
- ¹² KAN. STAT. ANN. §§ 12-5903(d); 19-26,105(d).
- ¹³ KAN. STAT. ANN. §§ 12-5903(f); 19-26,105(f).
- ¹⁴ KAN. STAT. ANN. §§ 12-5905(a)-(c); 19-26,107(a)-(c).
- ¹⁵ KAN. STAT. ANN. §§ 12-5906(a); 19-26,108(a).
- ¹⁶ *See generally*, HUTCHINSON, KAN., ORDINANCE NO. 2013-34.
- ¹⁷ *Land Bank Policy*, LYONS, KAN., (May 17, 2010), <http://www.lyonsks.org/documentcenter/view/64> (last visited Jan. 15, 2015).
- ¹⁸ *See generally*, Committee Substitute for Ordinance No. 120779, KANSAS CITY, MO., *available at* <http://www.kcmolandbank.org/city-ordinance.html> (last visited Aug. 9, 2013).
- ¹⁹ OVERLAND PARK, SUPP. NO. 2009-3 (9-30-09) at §2.70.030.
- ²⁰ HUTCHINSON, KAN., ORDINANCE NO. 2013-34 at §2-1703(A).
- ²¹ JUNCTION CITY, KAN., CODE, §110.120(C).
- ²² HUTCHINSON, KAN., ORDINANCE NO. 2013-34 at §2-1703(B).
- ²³ GREENSBURG, KAN., ORDINANCE NO. 1053 at §3.
- ²⁴ Please note, the County Land Bank statute states “The fee simple title to any real estate which is sold to the county in accordance with the provisions of K.S.A. 79-2804...” The County Land Bank statute does not reference K.S.A. 79-2804. *See* KAN. STAT. ANN. §19-26,108.
- ²⁵ MICHAEL R. HEIM, *Kansas Local Government Law* §9.02 (5th ed. 2014).
- ²⁶ KAN. STAT. ANN. § 19-101a et seq. (Home Rule Statute).
- ²⁷ KAN. STAT. ANN. §§ 12-5909(b); 19-26,111(b).
- ²⁸ MICHAEL R. HEIM, *Kansas Local Government Law* §9.62 (5th ed. 2014).
- ²⁹ KAN. STAT. ANN. §§ 12-5909; 19-26,111.
- ³⁰ KAN. STAT. ANN. §§ 12-5909(d); 19-26,111(d).



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ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING CHAPTER 2, ARTICLE 57 OF THE CITY CODE OF THE CITY OF EL DORADO, KANSAS, ESTABLISHING A LAND BANK FOR THE CITY OF EL DORADO, KANSAS

WHEREAS, the City of El Dorado (“City”) recognizes that the steady economic decline of areas of the community have the potential of creating vacant and abandoned properties that would stress healthier areas of the community;

WHEREAS, land banking provides the City with a viable tool to address abandoned and tax-delinquent properties; and

WHEREAS, the City desires to establish a Land Bank as a proactive measure to return such properties to productive use.

THEREFORE, BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

SECTION ONE. That Chapter 2, Article 57 of the City Code of the City of El Dorado, Kansas, be established as follows:

2.57.010 **DEFINITIONS.** For the purposes of this Article, the words set out in this Section shall have the following meanings:

“Bank” shall mean the El Dorado Land Bank established pursuant to this Chapter.

“Board” shall mean the Board of Trustees of the El Dorado Land Bank.

“City” shall mean the City of El Dorado, Kansas.

“County” shall mean Butler County, Kansas.

“Governing Body” shall mean the governing body of the City of El Dorado, Kansas.

2.57.020 **AUTHORITY AND GOVERNANCE.** The governing body of the City hereby establishes the City of El Dorado Land Bank. The Land Bank shall be governed by a five-member Board of Trustees who each shall serve a three-year term following appointment by the City Commission. Vacancies on the Board shall be filled by appointment for the vacant unexpired term. Primary staff support to the Board will be assigned by the City Manager. City staff will provide technical and professional support for Bank operations; additional support may be contracted as deemed necessary. The City Commission may appropriate operating funds to the Bank to pay the expenses of the Bank. The Bank may be dissolved by ordinance of the governing body for any reason. In such case, all property of the Bank shall be transferred to and held by the City and may be disposed of as otherwise provided by law.

2.57.030 **GOVERNING LAW.** The Bank shall be subject to the provisions of the Kansas cash basis law, K.S.A. 10-1101 et seq., and amendments thereto. The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the state. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included and become part of the annual report of the Board. All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216 et seq., and amendments thereto. All monies of the Bank which are not immediately required for the purposes of the Bank shall be invested in the manner provided by K.S.A. 12-1675, and amendments thereto.

The Bank shall make an annual report to the City Commission on or before January 31 of each year, showing the receipts and disbursements from all funds under its control and showing all property transactions occurring in each year. Such report shall include an inventory of all property held by the Bank. A copy of such inventory also shall be published on the official City newspaper on or before January 31 of each year. The Bank shall be subject to the provisions of K.S.A. 9-1401 et seq., and amendments thereto.

2.57.040 **OFFICERS AND MEETINGS.** The Board shall annually select from its membership, a chairperson, vice-chairperson, and secretary. The City's Finance Director shall serve as treasurer, who shall be bonded in such amounts as the governing body may require.

The Board shall fix the time and place at which its meetings shall be held. Meetings shall be held within the City and shall be subject to the provisions of the Kansas Open Meetings Act, K.S.A. 75-4317 et seq., and amendments thereto. A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present. The members of the Board shall be subject to the provisions of the laws of the state of Kansas, which relate to conflicts of interest, including, but not limited to, K.S.A. 75-4301 et seq., and amendments thereto.

2.57.050 **BOARD INDEMNIFICATION.** Subject to the provisions of K.S.A. 75-6101 et seq., and amendments thereto, if any action at law or equity, or other legal proceeding, shall be brought against any member of the Board for any act or omission arising out of the performance of duties as a member of the Board, such member shall be indemnified in whole and held harmless by the Board for any judgment or decree entered against such member and, further, shall be defended at the cost and expense of the Bank in any such proceeding.

2.57.060 **POWERS OF THE BOARD.** Pursuant to state law, the Board may exercise the following powers:

a) sue and be sued;

b) enter into contracts;

c) acquire, by purchase, gift or donation, and convey any real property, including easements and reversionary interests, and personal property subject to the provisions of state law;

d) rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank;

e) exercise any other power which may be delegated to the Land Bank by the governing body; and

f) exercise any other incidental power which is necessary to carry out the purposes of the Land Bank and this Article.

2.57.070 **TRANSFER OF PROPERTY TO THE LAND BANK.** Except as otherwise provided in this Article, any property located within the corporate limits of the City and acquired by the City, Butler County, or other taxing subdivision within Butler County may be transferred to the Bank. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this subsection. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirement and shall be exempt from any provision of law requiring a public sale.

The fee simple title to any real estate which is sold to Butler County in accordance with the provisions of K.S.A. 79-2803 and 79-2804, and amendments thereto, and upon acceptance by the Board may be transferred to the Bank by a good and sufficient deed by the County Clerk upon a written order from the Board of County Commissioners.

Property subject to a foreclosure sale may only be acquired by the Board if:

a) such property is located within a designated Neighborhood Revitalization District, or following a finding, adopted by resolution, by the City Commission that such acquisition serves the public interest; or

b) but for acquisition of the property by the Board (at the sole discretion of the Board), the property would not otherwise be put to productive use.

2.57.080 **LAND BANK PROPERTY ADMINISTRATION.** The Board shall assume possession and control of any property acquired by it under this Article and shall hold and administer such property. In the administration of property, the Board shall:

a) manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;

b) compile and maintain a written inventory of all such property, and make such inventory available for public inspection and distribution at all times;

c) study, analyze and evaluate potential, present and future uses for such property which would provide for the effective re-utilization of such property;

d) plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;

e) establish and maintain records and accounts reflecting all transactions, expenditures and revenues relating to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired;

f) no less than thirty days prior to the sale of any property owned by the Bank, publish a notice in the official City publication announcing such sale.

2.57.090 **LAND BANK PROPERTY DISPOSITION.** The Board, without competitive bidding, may sell any property acquired by the Board at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants deemed necessary or appropriate to assure the property's effective reutilization. The sale of any real property by the Board under the provisions of this Article on which there are delinquent special assessments to finance public improvements levied by the governing body shall be conditioned upon the approval of the governing body. The Board, for purposes of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank.

2.57.100 **TAXES AND ASSESSMENTS.** Until sold or otherwise disposed of by the Bank and except for special assessments levied by the City Commission to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the state and any other political or taxing subdivision of the state.

Except for special assessments levied by the City Commission to finance public improvements, when the Board acquires property pursuant to this Article, the County Treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.

Property held by the Bank shall remain liable for special assessments levied by a municipality to finance public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.

The City Commission may abate part or all of the special assessments it has levied, and the Bank and City Commission may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of the abatement.

2.57.110 **USE OF PROCEEDS FROM SALE OF LAND BANK PROPERTY.** Except as provided in this Chapter, any moneys derived from the sale of property by the Bank shall be retained by the Bank for the purposes and operations thereof. The Board may use all or any part of the proceeds from the sale described in this Chapter to reimburse the City's Bond and Interest Fund for delinquent special assessments due on such property.

SECTION TWO. Effective Date. This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

PASSED AND ADOPTED by the Governing Body of the City of El Dorado, Kansas this ____ day of _____, 2020.

CITY OF EL DORADO, KANSAS

Bill Young, Mayor

ATTEST

Tabitha Sharp, City Clerk

APPROVED AS TO FORM:

Ashlyn Lindskog, City Attorney