

CITY OF KANAWHA - ORDINANCE NO. 081721

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AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KANAWHA, IOWA.

Be It Enacted by the City Council of the City of KANAWHA, Iowa, that:

SECTION 1. Title VI, Physical Environment, Code of Ordinances, 2020, be amended by adding Chapter 10:

TITLE VI PHYSICAL ENVIRONMENT CHAPTER 10 DANGEROUS BUILDINGS

6-10-1 Enforcement Officer

6-10-2 General Definition of Unsafe

6-10-3 Unsafe Building

6-10-4 Notice to Owner

6-10-5 Conduct of Hearing

6-10-6 Posting of Signs

6-10-7 Right to Demolish

6-10-8 Costs

6-10-1 ENFORCEMENT OFFICER.

The Mayor, Chief of Police or Fire Chief of the City of Kanawha, has the authority to enforce this chapter.

6-10-2 GENERAL DEFINITION OF UNSAFE.

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter or any ordinance, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa Sec. 657.1 & 364.12[3a])

6-10-3 UNSAFE BUILDING.

"Unsafe building" shall mean any structure or mobile home meeting any or all of the following criteria:

1. Collapse of Member. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

2. Wind Resistance. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.

3. Material Deterioration. Whenever any portion thereof has cracked, warped, buckled, or set-

tled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

4. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

5. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

6. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

7. Deterioration. Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

8. Damaged Structurally. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Inadequate Maintenance. Whenever 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, air or sanitation facilities, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

10. Fire Hazard. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

11. Public Nuisance. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

12. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6-10-4 NOTICE TO OWNER.

The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not re-occupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

(Code of Iowa, Sec. 364.12 [3h])

1. Notice Served. Such notice shall be served by sending by Certified Mail to owner of record, according to Section 364.12[h] of the Code of Iowa, if he shall be found within the City limits. If he is not found within the City limits such service may be made upon said owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as the date he receives such notice.

2. Hearing. Such notice shall also advise the owner that he may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

6-10-5 CONDUCT OF HEARING.

If requested, the Council shall conduct a hearing in accordance with the following:

1. Nature. The owner shall be served with written notice speci-

fying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

6-10-6 POSTING OF SIGNS.

The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF KANAWHA, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

6-10-7 RIGHT TO DEMOLISH.

In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

(Code of Iowa, Sec. 364.12[3h])

6-10-8 COSTS. Costs incurred under 6-10-7 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Auditor for collection in the manner provided for other taxes.

(Code of Iowa, Sec. 364.12[3h])

SECTION 2. SEVERABILITY

CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE.

This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 12th day of Oct., 2021, and approved this 12th day of Oct., 2021.

Gloria Sobek, Mayor

Attest: Sharon Grimm, City Clerk

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