

**ORDINANCE 18-05**

**AN ORDINANCE TO AMEND THE ABATEMENT PROCESS AND  
DEFINITIONS FOR DILAPIDATED BUILDING, OWNER, UNSECURED  
BUILDING AND UNFIT FOR HUMAN OCUPANCY AS STATED IN  
TITLE ELEVEN (11) SECTION 22-112 AND SECTION 22-112.1 OF THE  
OKLAHOMA MUNICIPAL CODE BOOK.**

Chapter 4, Article 8, Section 4-90

Revised Code

DILAPIDATED AND UNSECURED BUILDINGS

Chapter 4, Article 8, Sections 4-93 / 4-106

Sections:

4-93 Dilapidated and unsecured buildings unlawful.

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4-93 Dilapidated and unsecured buildings unlawful.

**FILED**

OCT 18 2018

TIME 12:54 AM  
HOPE TRAMMELL, COUNTY CLERK  
PITTSBURG COUNTY

BY RT DEPUTY

It is unlawful for any owner of any lot, tract or parcel of land situated within the corporate limits of the city to allow a dilapidated or unsecured building to exist upon said premises.

#### 4-94 Definitions.

As used in this chapter, the following terms shall have the meaning respectively ascribed to them in this section:

"Boarding and Securing" or "Boarded and Secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure.

"Dilapidated Building" means:

- a. a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, or safety, or welfare of the general public;
- b. a structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety and welfare of the general public
- c. a structure which is determined by the city council or the city manager to have been an unsecured building as defined in this chapter, more than three times within any 12-month period;
- d. a structure which has been boarded and secured, as defined in this chapter, for more than 18 consecutive months;
- e. a structure declared by the city council to constitute a public nuisance.

"Owner" means the property owner of record as shown by the most current tax rolls of the County Treasurer.

"Unsecured Building" means any structure which is not occupied by a legal or equitable owner thereof, by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure.

"Unfit for human occupancy" means a structure that due to lack of necessary repairs is considered inhabitable and a hazard to the health, safety and welfare of the general public.

#### Section 4-95 Dilapidated buildings--Notice, hearing and removal.

The Mayor and City Council by majority vote may cause identified dilapidated buildings within the corporate limits to be torn down and removed in accordance with the provisions of this section:

A. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the Mayor holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of said notice shall be mailed by certificate of mailing to the property owner at the address shown by the most current tax rolls in the office of the County Treasurer. Written notice shall also be mailed by certificate of mailing to any mortgage holder as shown by the records in the office of the County Clerk to the last-known address of the mortgagee. However, if neither the property owner nor the mortgage holder can be located, notice shall be given by publication in a newspaper of general circulation as defined by state law. Such notice may be published once not less than ten (10) days prior to any hearing or action by the city.

B. A hearing shall be held by the City Mayor and City Council to determine if the property is dilapidated and has become detrimental to the health, safety or welfare of the general public and the community, or if said property creates a fire hazard which is dangerous to other property.

C. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the City Mayor with concurrence of the City Council may cause the dilapidated building to be torn down and removed. Upon finding the building is dilapidated and will be torn down the owner shall be given 30 days to complete the action. Failure to complete the required removal of the identified structure within this 30 day period will result in a Municipal fine of not less than \$200.00.(two hundred) The owner of the dilapidated building will be afforded another 30 days period to complete the removal. If during this period, the building has not been removed, another fine of not less than \$300.00 (three hundred) shall be levied against the owner.

D. The final solution in resolving the removal of the dilapidated building will result in action taken by the City to cause the removal. After attempts to remove the dilapidated building described in section "C" have proven unsuccessful, the removal will become the responsibility of the City. The Superintendent shall affix reasonable dates for the commencement and completion of the work. The City Clerk shall immediately file a notice of dilapidation and lien with the County Clerk of the county in which the property is situated describing the property, the findings of the City Mayor at the hearing, and stating that the city claims a lien on said property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of said notice.

E. The agents of the city are granted the right of entry on the property for the performance of the necessary removal duties as a governmental function of the city if the work is not performed by the property owner within dates fixed by the City Mayor, or City Council under circumstances hereinafter provided.

#### Section 4-96 Determination and assessment of costs.

The City Superintendent shall determine the actual cost of the dismantling and removal of a dilapidated building and any other expenses that may be necessary in conjunction with the dismantling and removal of the building, including the cost of notice and mailing. The City Clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the building and a demand for payment of such costs, by mail to the property owner. In addition, a copy of said statement shall be mailed to any



mortgage holder. At the time of the mailing of the statement of costs to any property owner or mortgage holder, the city shall retain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. If the city dismantles or removes any dilapidated building, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for the dismantling and removal of the dilapidated building. If dismantling and removal of the dilapidated building is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

#### Section 4-97 Lien on the property, civil remedy.

A. When payment is made to the city for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six months from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer of the county in which the property is situated. Said costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of dilapidation and lien is filed with the County Clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the County Clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid.

B. At any time prior to collection as provided for herein, the city may pursue any civil remedy for collection of the amount owing and interest thereon including an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the City Clerk shall forward to the County Treasurer of the county wherein the property is situated a notice of such payment and shall direct discharge of the lien.

#### Section 4-98 Exemption from liability--Restrictions.

The officers, employees or agents of the city shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise proscribed by law.

#### Section 4-99 Unsecured building--Notice and hearing.

The City Mayor may cause an unsecured building to be boarded and secured in accordance with the following procedures:

A. Before the City Mayor orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by certificate of mailing to any property owner or mortgage

holder. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by publication in a newspaper of general circulation as proscribed by state law. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the city pursuant to the provisions of this section.

B. The owner of the property may give his or her written consent to the city authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving said written consent, the owner waives his or her right to a hearing by the City Mayor and any appeal to the City Council

C. If the property owner does not give his or her written consent to such actions, a hearing may be held by the City Mayor to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. In making such determination, the City Mayor shall apply the following standard:

1. That boarding and securing of an unsecured building would make such building less available for transient occupation;
2. Decrease a fire hazard created by such building; or
3. Decrease the hazard that such building would constitute an attractive nuisance to children.

#### Section 4-100 Notice of lien--Boarding and securing.

Upon making a determination that an unsecured building exists as defined in this section, the City Manager may order the boarding and securing of the building as follows:

A. Upon issuance of the City Mayor's order, the City Clerk shall immediately file a notice of unsecured building and lien with the County Clerk of the county wherein a property is situated describing the property, stating the findings of the hearing at which such building was determined to be unsecured, and stating that the city claims a lien on said property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing said notice.

B. Pursuant to the order of the City Mayor, agents of the city are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the city.

#### Section 4-101 Determination and assessment of costs.

A. After an unsecured building has been boarded and secured, the City Manager shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The City Clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders. At the time of mailing of the statement of

costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the address of the mailer.

B. If the city boards and secures an unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

#### Section 4-102 Lien on the property, civil remedy.

A. When payment is made to the city for costs incurred, the City Clerk shall file a release of lien but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the costs to the County Treasurer of the county in which the property is situated. Said costs shall be levied on the property and collected by the County Treasurer of the county wherein the property is situated as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the County Clerk. In addition to the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the County Clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid.

B. At any time prior to collection as provided for in this section, the city may pursue any civil remedy for collection of the amount owing and interest thereon including an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon reviewing payment, the City Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien.

#### Section 4-103 Summary boarding and securing.

A. If the City Mayor or City Council causes a structure within the corporate limits to be boarded and secured, any subsequent need for boarding and securing within a six month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or the mortgage holder in accordance with state law.

B. At the time of such summary boarding and securing, the city shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may submit by written request an appeal with the City Clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for previously in this section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be collected as provided for previously in this section.



Section 4-104 Right to appeal.

A. The property owner or mortgage holder shall have a right to appeal to the City Council any order of the City Mayor as it relates to applicable provisions within this chapter. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the City Manager's order is rendered.

B. Said notice of appeal shall serve to stay all orders related thereto until a hearing is held before the City Council. C. Notice of a hearing before the City Council shall be mailed to the property owner and the mortgage holder no less than ten (10) days prior to the scheduled hearing date.

D. Should the City Council, upon hearing the appeal, determine that a building is dilapidated and order it abated by demolition and removal, any action to challenge the order of the City Council shall be filed within 30 business days from the date of the order.

Section 4-105 Designation of another administrative officer.

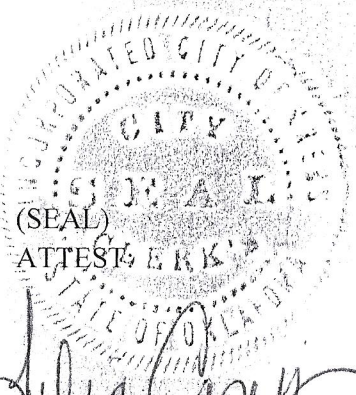
The City Mayor may designate another administrative officer of the city to discharge the duties herein before delegated to the City Mayor.

Section 4-106 Agricultural uses exempted.

The provisions of this chapter shall not apply to any property zoned and used for agricultural purposes.

SECTION 2: Emergency Clause: That an emergency is hereby declared to exist for the preservation of the public peace, health, and safety by reason whereof it is necessary that this act take effect and be in full force and effect from and after its passage and approval.

Approved as to form and legality by: Pat Layden, Pat Layden, City Attorney  
PASSED AND APPROVED THIS 16th DAY OF October, 2018.

  
(SEAL)  
ATTEST  
Julia Casey  
Julia Casey, Clerk

CITY OF KREBS

By: Bobby Watkins  
Bobby Watkins, Mayor