

ORDINANCE NO. 1561
AN ORDINANCE RELATED
ESTABLISHING AN ENVI-
RONMENTAL CODE FOR THE
CITY OF GOODLAND, KAN-
SAS.

BE IT ORDAINED BY THE
GOVERNING BODY OF THE
CITY OF GOODLAND, KAN-
SAS:

Section 1. TITLE. This ordinance shall be known as the "Environmental Code."

Section 2. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided.

Section 3. PURPOSE. The purpose of this ordinance is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof.

Section 4. RULES OF CONSTRUCTION. For the purpose of this ordinance, the following rules of construction shall apply: (1) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof." (2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable. (3) Number - Words of number shall be construed to mean singular or plural, as may be applicable. (4) Tense - Words of tense shall be construed to mean present or future, as may be applicable. (5) Shall - The word shall is mandatory and not permissive.

Section 5. DEFINITIONS. The words and phrases listed below when used in this ordinance shall have the following meanings: (1) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the ordinance; or incapable of moving under its own power; or in a junked or wrecked condition. (2) Accessory Structure - a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings. (3) Commercial or Industrial - used or intended to be used primarily for other than residential purposes. (4) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering. (5) Exterior - those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs. (6) Garbage - without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs. (7) Person - any individual, individuals, corporation, partner-

ship, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession. (8) Premises - any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon. (9) Refuse - garbage and trash. (10) Residential - used or intended to be used primarily for human habitation. (11) Structure - anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto. (12) Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings. (13) Weathered - deterioration caused by exposure to the elements. (14) Yard - the area of the premises not occupied by any structure.

Section 6. PUBLIC OFFICER. The City Manager of the City of Goodland shall be the public officer charged with the administration and enforcement of this ordinance.

Section 7. ENFORCEMENT STANDARDS. No person shall be found in violation of this ordinance unless the public officer, or his or her authorized representative, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under Section 8 but shall not include conditions which are not readily visible from any public place or from any surrounding private property.

Section 8. UNLAWFUL ACTS It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows: (a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following: (1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse; (2) abandoned motor vehicles; or (3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property. (b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly: (1) exteriors of any structure; (2) exteriors of any accessory structure; or (3) fences, walls, or retaining walls. Section 9. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 9 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal ser-

vice. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner. (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state: (a) The condition which has caused the violation of this ordinance; and (b) That the person in violation shall have: (1) 10 days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or; (2) 45 days from the receipt of the order to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above, (3) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in Section 12, a hearing before the governing body or its designated representative on the matter; and; (c) Provided, however, that the governing body [or its designee named herein] shall grant one or more extensions to the time periods stated in subsections (2) and (3), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this ordinance; and, (d) That failure to alleviate the condition or to request a hearing may result in prosecution under Section 10 and/or abatement of the condition by the city according to Section 11 with the costs assessed against the property under Section 14. (K.S.A. 12-1617e) Section 10. PENALTY. The public officer, or his or her authorized representatives, may file a complaint in the municipal court against any person found to be in violation of Section 8, provided however, that such person shall first have been sent a notice as provided in Section 9 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 9. Upon such complaint in the municipal court, any person found to be in violation of Section 8 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this ordinance, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. Section 11. ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 10, the public officer, or his or her authorized representatives, may seek to remedy violations of this ordinance in the following manner. If a person to whom an order has been served pursuant to Section 9 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 9, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 14.

A copy of the resolution shall be served upon the person in violation in one of the following ways: (a) Personal service upon the person in violation; (b) Certified mail, return receipt requested; or (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer, or his or her authorized representatives and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists. (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. Section 12. HEARING. If a hearing is requested within the 10 day period as provided in Section 9, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in Section 11. Section 13. APPEALS Any person affected by any determination of the governing body under Sections 11 or 12 may appeal such determination in the manner provided by K.S.A. 60-2101.

Section 14. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been

paid in full. Section 15. CONSTRUCTION. Nothing in this ordinance shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this ordinance shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance.

Section 16. This ordinance shall be effective upon its passage and publication once in the official city newspaper.

PASSED AND APPROVED
this ----- day of
_____, 2006, by the
governing body of the City of
Goodland, Kansas.
Rick Billinger, Mayor

ATTEST:
Mary P. Volk, City Clerk

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ORDINANCE NO. 1562
AN ORDINANCE RELATED
TO DANGEROUS AND UNFIT
STRUCTURES, AND ABATE-
MENT THEREOF, LOCATED
WITHIN THE LIMITS OF THE
CITY OF GOODLAND, KAN-
SAS, AND REPEALING SEC-
TION 7-601 THROUGH 7-614
OF THE CODE OF THE CITY
OF GOODLAND, KANSAS.

BE IT ORDAINED BY THE
GOVERNING BODY OF THE
CITY OF GOODLAND, KAN-
SAS:

Section 1. PURPOSE. The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this ordinance. (K.S.A. 12-1751)

Section 2. DEFINITIONS. For the purpose of this ordinance, the following words and terms shall have the following meanings: (a) Enforcing officer: The City Manager of the City of Goodland shall be the enforcing officer charged with the administration and enforcement of this ordinance. (b) Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground. (K.S.A. 12-1750)

Section 3. ENFORCING OFFICER; DUTIES. The enforcing officer, or his or her authorized representative, is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this ordinance, including the following: (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation; (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction; (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body; (d) Receive petitions as provided in this ordinance.

Section 4. PROCEDURE; PETITION. Whenever a petition is filed with the enforcing officer or his or her authorized representative, by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe

or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body.

Section 5. SAME; NOTICE. The governing body upon receiving a report as provided in Section 4 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of record and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S.A. 12-1752)

Section 6. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing. (b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only." (K.S.A. 12-1752)

Section 7. SAME; HEARING, ORDER. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper 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.

Section 8. DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same.

Section 9. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the enforcing officer or his or her authorized representatives, may cause the structure to be repaired, altered, improved, or to be vacated and closed. (b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer or his or her authorized representatives, may cause the structure to be removed and demolished.

Section 10. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the enforcing officer may proceed to make the site safe.

Section 11. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer or his or her authorized representatives, including making the site safe, shall be reported to the city clerk. (b) The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice. (c) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any