

# **JANUARY 2018 NUISANCE AND DANGEROUS STRUCTURE**



## **Crawford County**

### **ABATEMENT REGULATIONS**

**CRAWFORD COUNTY KANSAS  
RESOLUTION 2018-001  
JANUARY 2018 NUISANCE AND DANGEROUS  
STRUCTURE ABATEMENT REGULATIONS**

**ARTICLE 1 - GENERAL PROVISIONS**

**Section 1-01: Legal Authority**

This regulation is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-101 through 19-101f and amendments thereto.

**Section 1-02: Declaration of Finding and Policy**

The Board of County Commissioners finds that provisions for adequate and reasonable control over accumulation of articles or dangerous buildings maintained or permitted by any person to the injury, annoyance or inconvenience of the public, is necessary and desirable. The adoption of a nuisance and dangerous building abatement regulation is to eliminate and prevent the development of conditions that are injurious to the health, safety, and welfare of the inhabitants with Crawford County, Kansas, is in the best public interest.

**Section 1-03: Purpose**

The purpose of this regulation is to protect, preserve, upgrade and promote the environmental quality of Crawford County, Kansas by making it unlawful to maintain conditions which are injurious to the health, safety and welfare of the inhabitants within Crawford County and to provide for the uniform administration and enforcement thereof.

**Section 1-04: Definitions**

- 1) GOVERNING BODY - Board of County Commissioners of Crawford County, Kansas.
- 2) PERSON - Any individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation, including municipal corporation.
- 3) COUNTY - Crawford County, Kansas.
- 4) PUBLIC OFFICER - Shall be the Environmental Director, Zoning Administrator, &/or Registered Sanitarian designated by the Governing Body charged with administration and enforcement of this act.
- 5) PROPERTY - Any road, highway, park, public or private enclosure, lot or tract of land, whether vacant or occupied and all buildings, structures or facilities located thereon.

- 6) VEHICLE - Any automobile, truck, tractor or motorcycle that, as originally built contained an engine, regardless of whether it contains an engine at any other time.
- 7) INOPERABLE - Means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned not having registration or tagged or unable to perform the function or purpose of which it was originally constructed.
- 8) BUILDING - Any site-built structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
- 9) STRUCTURE - Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.

## **ARTICLE 2 - UNLAWFUL ACTS**

It shall be unlawful for any person in charge of or in possession of any property in the county to permit a nuisance or dangerous building to be maintained or continued thereon.

### **Section 2-01: Nuisance**

Nuisance means the accumulation of the following substances thrown, left or deposited on any road, highway, park, public or private enclosure, lot or tract of land, whether vacant or occupied in any unincorporated area of Crawford County, Kansas:

- 1) Abandoned or discarded household appliances, including but not limited to refrigerators, freezers, stoves, washers and dryers, lumber, plastic materials, furniture;
- 2) Iron, steel and other old or scrap ferrous or non ferrous materials;
- 3) Rags, batteries, paper, tires and other rubber materials,;
- 4) All dead animals not removed within 24 hours after death;
- 5) Garbage and all other rubbish, debris or deposits of filth or waste which may constitute a fire or health hazard or become a breeding place for insects, vermin, rodents or reduce the value of private property, interfere with the comfort and well-being of the public or destroy the scenic beauty of the County.
- 6) Obnoxious vegetation shall be construed to be any weeds, grasses or vegetation or blossoms which mature to a size sufficient to interfere in any manner with the health, convenience or pleasure of persons living near or adjacent to such premises. Growth of 12 inches or more shall be considered a mature size on lots of 3 acres and smaller. (SUBURBAN RESIDENTIAL AND SMALLER)

- 7) It is unlawful to possess or have possession of more than Three (3) wrecked, inoperable or abandoned vehicles or parts thereof, for any reason, unless they are in the possession of a licensed salvage control operator. An abandoned or inoperable vehicle is one that is unable to operate or move under its own power. It shall also mean any vehicle that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition which includes having uninflated tires, no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal, and safe manner. An inoperable vehicle shall not include vehicles needing only the installation of a battery or the addition of fuel in order to operate.
- 8) The provision of this section shall not apply to the parking or storage of a vehicle inoperable for a period of thirty (30) consecutive days or less.

**Section 2-02 – Dangerous, Unsafe, or Unsanitary Structures(s); Conditions defined:**

- 1) All buildings or structures which have any of the following defects shall be deemed “dangerous and unsafe buildings,” provided that such conditions or defects exist to the extent that the life, property or safety of the public or its occupants are endangered.
  - a. Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, decay, vandalism, or faulty construction or the removal, movement or instability of any part of the ground necessary for the purpose of supporting such building or the deterioration, decay or inadequacy of its foundation or any other cause is likely to partially or completely collapse.
  - b. Whenever any portion or member or appurtenances thereof (ie., porch, chimney, signs) is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property.
  - c. Whenever the building or structure, because of inadequate maintenance, dilapidation, decay, damage, faulty construction, trash, filth, inadequate light, air ventilation or sanitation facilities or otherwise is determined to be unsafe, unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.
  - d. Whenever, for any reason, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used.
  - e. Whenever the building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
  - f. Whenever any portion of the building or structure, including demolition, debris and basement or foundation wall, remains on a site or partially completed buildings or

structures when work is abandoned for six months or more.

- 2) Whenever a petition/complaint is filed with the Governing Body or the Public Official that there is a structure unfit for human use or habitation, or whenever it appears to the Public Official, on his own motion, that any structure is dangerous, unsafe, or unfit for human use or habitation, he shall, if his preliminary investigation discloses a basis for such charges, 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.
- 3) If, after such notice, the Public Official determine that the structure under consideration is unfit for human use or habitation, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which:
  - a. If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, which shall not exceed 50 percent of the fair market value of such structure, the owner of such property shall, within the time specified in the order, repair, alter or improve such structure to render it safe and fit for human use or habitation, or the owner of such property shall, within the time specified in the order, vacate, close, board/secure the structure for a period not to exceed 24 months or until conformance with this Section is made, whichever period is shorter; or,
  - b. If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, that is to say under 50 percent of the fair market value which is hereby fixed as reasonable cost by the Governing Body for Crawford County, the owner shall, within the time specified in such order, remove or demolish such structure.
- 4) If the owner fails to comply with an order to repair, alter or improve, or to vacate, close, board/secure the structure within thirty (30) days from the date of such order, the Public Official may cause such structure to be vacated, closed, boarded and secured for a period not to exceed six (6) months.
  - a. If the owner fails to comply with an order to repair, alter or improve the structure within the six (6) month time period from the date of such order to board and secure, the Public Official shall deem the structure abandoned and shall initiate dilapidation Proceedings.
  - b. Owner shall be notified and shall receive 30 day notice of any subsequent need for re-securing the structure. Public Officials shall summarily re-secure structure upon failure of the owner to re-secure within 30 day time period.
  - c. The fact that the building or structure had to be re-secured by the County Shall

demonstrate that it is an attractive nuisance, and the Public Official shall begin dilapidation proceedings.

### **ARTICLE 2-03: Conditions for Abatement of Tall Weeds/Growth:**

- 1) Letter of notice sent to the property owners/tenants/landowner of violation.
- 2) Formal ten (10) days given to mow said property(s). Failure to mow will result in the county entering said property and mowing. Charges for the County's service will be sent as addressed in Article 5 of these regulations.

### **ARTICLE 3 - NOTICES AND ORDERS**

#### **Section 3-01: Inquiry**

The Public Officer may make an inquiry and inspection when he/she observes conditions which appear to constitute a nuisance or dangerous building as defined in Section 2-01 and 2-02, or upon receiving a complaint in writing, signed by sender and describing the existence of such complaint or is informed that a nuisance or dangerous building may exist by the public health, police or fire authority.

#### **Section 3-02: Right of Entry**

After receiving a complaint, the Public Officer shall investigate said complaint after contacting the property owner. Legal steps to correct the violation will be taken should entry of property be denied or restricted by the property owner.

#### **Section 3-03: Notice and Order**

The Public Officer shall issue a notice and order directed to the record owner of the property. The notice and order shall contain:

- 1) The street address and a legal description sufficient for identification of the premises upon which the nuisance and/or dangerous building or structure is located.
- 2) A brief statement and concise description of the conditions found.
- 3) A statement of the action required to be taken as determined by the Public Official:
  - a. If the conditions are in violation of Section 2-01, the nuisance must be abated within thirty (30) days from the date of service of the notice.
  - b. If the Public Official has determined a violation of Section 2-02 exists and that the building or structure must be vacated or demolished, the order shall require that the building or structure shall be vacated or demolished within a certain time from the

date of the order as determined by the Public Official to be reasonable. The parties who have received such notice for the structure may request a hearing with the public official to discuss said structure.

- 4) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided in Section 7 or abatement of the condition(s) by the County as provided by Section 5.

#### **Section 3-04: Service of Notice and Order**

- 1) The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following, if known to the Public Official or disclosed from official public records:
  - a. The holder of any mortgage or deed of trust or other lien or encumbrance of record.
  - b. The owner or holder of any lease of record.
  - c. The holder of any other legal interest of record in or to the property.
- 2) The failure of the Public Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

#### **Section 3-05: Method of Service**

- 1) Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the Public Official.
- 2) If the person in charge or possession of the real property is a resident of Crawford County, Kansas, then written notice may be personally served by the Public Official or a police officer.
- 3) If no address of any such person appears or is not known to the Public Official , then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the property involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

### **Section 3-06: Vacation and Demolition**

The following standards shall be followed by the Public Official (and by the Governing Body if an appeal is taken) in ordering the vacation or demolition of any dangerous building or structure:

- 1) Any building declared a dangerous building under this code shall be made to comply with one of the following:
  - a. The building shall be demolished at the option of the building owner; or
  - b. If the building does not constitute an immediate danger to the life, limb, property or safety of the public, it may be vacated, secured and maintained again.
- (2) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated and demolished.

### **Section 3-07: Notice to Vacate**

Posting: Every notice to vacate shall, in addition to being served as provided in Sections 3-04 and 3-05, be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER  
UNSAFE TO OCCUPY  
It is a misdemeanor to occupy this building,  
or to remove or deface this notice.**

**Public Official of Crawford County, Kansas**

### **Section 3-08: Compliance**

Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 3-03, reciting the emergency and specifying the conditions which necessitates the posting. No person shall remain in or enter any building, which has been so posted, except that entry may be made to demolish or remove such building. No person shall remove or deface any such notice after it is posted until the required demolition or removal has been completed.

### **ARTICLE 4 – ENFORCEMENT**

- 1) After any order of the Public Official or the Governing Body made pursuant to this regulation shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with an order is guilty of a penalty as provided in Article 6.



- 2) Failure to Obey Order - If, after any order of the Public Official or Governing Body made pursuant to this regulations has become final thirty (30) day notice, the person to who such order is directed shall fail, neglect or refuse to obey such order, and such required action is not commenced within 30 days after any final notice and order is issued the Public Official may:
  - a. May cause the person to be prosecuted under Article 6 addressing penalties.
  - b. Institute any appropriate action to abate such nuisance or dangerous building.

## **ARTICLE 5 - COSTS**

The expense incurred in the abatement of a nuisance or dangerous building shall be made a personal obligation of the property owner. The Public Official shall receive a record of all costs incurred to abate property.

- 1) The County shall keep an accurate record of the costs of cutting weeds and obnoxious vegetable growths from each specific lot, piece or parcel of land. It shall report the same to the County Clerk, whereupon the County Clerk shall mail a statement of such cost to the last known address of the owner, occupant or person in charge of such property. If such costs are not paid within ten (10) days from the mailing of such notice, the Governing Body shall proceed to pass a resolution forwarding such cost to the Kansas Setoff Program for such charges against the property legal described in the notice as sent by the Public Official. The Governing Body shall certify such assessment to the County Clerk for collection and payment to the County the same as other assessments and taxes are collected and paid to the County.
- 2) Such costs to be assessed shall include:
  - a. An amount of \$200.00 per hour for the first hour for *abating* and terminating the nuisance, with a minimum charge of one hour, plus \$50.00 for each one-quarter hour in excess of one hour;
  - b. The cost incurred for dumpster rental and landfill dumping fee; and
  - c. An administrative fee of \$100.00.

## **ARTICLE 6 - PENALTY**

### **Section 6-01: Penalty**

Should any person fail to comply with the notice and order, the Public Official, through the Crawford County Counselor, may cause a complaint to be filed in the Codes Court of Crawford County, Kansas, against such alleged violator and, upon conviction of any violation of the provision of Article 2, such person shall be fined in an amount not to exceed approved Codes Court Schedule and to include court cost. Each day during or on which a

violation occurs or continues, after notice has been served, shall constitute or separate offense.

## **ARTICLE 7 - VALIDITY**

### **Article 7-01: Validity**

This act shall take precedence over any and all regulations that may conflict herewith and any part of any resolution that conflicts herewith is hereby repealed.

### **Section 7-02: County Counselor Authorized**

The Crawford County Counselor shall enforce the provisions of this act and is hereby authorized to file appropriate actions for such enforcement, upon request of the Public Official or the Governing Board and upon showing that there are sufficient grounds for such action. In addition to other remedies, actions of injunction, mandamus and quo warrant are appropriate for enforcement of this act.

### **Section 7-03: Effective Date**

This regulation shall take effect and be in force from and after its' publication in the Official County newspaper.