

AN ORDINANCE of the City of Neosho repealing and replacing Chapter 525 Dangerous Buildings and Structures, to amend procedures and appeals for the determination of dangerous buildings and structures of the Code of Ordinances for the City of Neosho.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, as follows:

Section 1. That Chapter 525 Dangerous Buildings and Structures of Title V, Building Code is repealed in its entirety and a new Chapter 525 Dangerous Buildings and Structures is hereby adopted to read as follows:

Chapter 525 Dangerous Buildings and Structures

Article Generally

- Section 525.010 **Purpose and Scope.**
- Section 525.020 **Dangerous Buildings Defined.**
- Section 525.030 **Dangerous Buildings Declared Nuisance.**
- Section 525.040 **Standards for Repair, Vacation or Demolition.**
- Section 525.050 **Duties of Compliance Inspector — Procedure and Notice.**
- Section 525.060 **Duties of the Director of Development Services.**
- Section 525.070 **Duties of the City Attorney.**
- Section 525.080 **Duties of the Fire Department and Police Department.**
- Section 525.090 **Tests — Director of Development Services Authority to Require.**
- Section 525.100 **Test Methods.**
- Section 525.110 **Emergencies.**
- Section 525.120 **Administrative Liability.**
- Section 525.130 **Violations — Disregarding Notices or Orders.**

Article Board of Appeals

- Section 525.140 **Established.**
- Section 525.150 **Composition.**
- Section 525.160 **Powers.**
- Section 525.170 **Quorum — Organization — Procedure.**
- Section 525.180 **Appeals — Generally.**
- Section 525.190 **Appeal Hearings — Decision.**

Article Generally

Section 525.010 **Purpose and Scope.**
[Ord. No. 95-28 §1(7-48), 5-2-1995]

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this

Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Neosho, Missouri.

Section 525.020 **Dangerous Buildings Defined.**

[Ord. No. 95-28 §1(7-49), 5-2-1995]

A. All buildings or structures that are detrimental to the health, safety or welfare of the residents of the City and that have any or all of the following defects shall be deemed "*dangerous buildings*":

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members, or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the City.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.

8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.

9. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City.

Section 525.030 **Dangerous Buildings Declared Nuisance.**

[Ord. No. 95-28 §1(7-50), 5-2-1995]

All dangerous buildings or structures, as defined by Section **525.020** of this Chapter are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

Section 525.040 **Standards for Repair, Vacation or Demolition.**

[Ord. No. 95-28 §1(7-51), 5-2-1995]

A. The following standards shall be followed in substance by the Compliance Inspector, the Director of Development Services in ordering repair, vacation or demolition of any dangerous building.

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this City or Statute of the State of Missouri, it shall be repaired or demolished.

Section 525.050 **Duties of Compliance Inspector — Procedure and Notice.**

[Ord. No. 95-28 §1(7-52), 5-2-1995]

A. The Compliance Inspector(s) shall have the duty under this Chapter to:

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist

that render such place to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.

2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Compliance Inspector determines that there are reasonable grounds to believe that such building is dangerous.

3. Inspect any building, wall or structure reported by the Fire or Police Departments of this City as probably existing in violation of this Chapter.

4. Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) consecutive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Newton County, of any building found by him/her to be a dangerous building within the standards set forth in Section 525.020.

The notice required shall state that:

a. The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this Chapter.

b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.

c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Newton County may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done; provided, that any person notified under this Subsection to repair, vacate or demolish any building or clean up the property, shall be given such reasonable time not exceeding thirty (30) days, to commence the required work.

5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the

building or structure a dangerous building, a statement indicating that as a dangerous building, said building or structure constitutes a nuisance and an order requiring the designated work to be commenced within the time provided for in the above Subsection.

6. Report in writing to the Director of Development Services the noncompliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.

7. Appear at all hearings conducted by the Director of Development Services and testify as to the condition of dangerous buildings.

8. Immediately report to the Director of Development Services concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Director of Development Services may direct that such building be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the Compliance Inspector. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorders of Deeds of Newton County. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the order by the Director of Development Services and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein.

Section 525.060 **Duties of the Director of *Development Services*.**

[Ord. No. 95-28 §1(7-53), 5-2-1995]

A. The Director of Development Services shall have the power pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter and cause the Compliance Inspector to make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint or report from any source, that a

dangerous building exists in the City, the Director of Development Services shall cause an inspection to be made forthwith. If the Director of Development Services deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Director of Development Services may request an inspection and report be made by any other City Department or retain services of an expert whenever the Director of Development Services deems such service necessary.

2. Upon receipt of a report from the Compliance Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, the Director of Development Services shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice of said hearing shall be given, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service then, by publication in a newspaper qualified to publish legal notices, at least ten (10) days in advance of the hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Newton County, to appear before the Director of Development Services on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Compliance Inspector's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

3. Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section **525.020** of this Chapter.

4. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, and a nuisance and detrimental to the health, safety or welfare of the residents of the City, the Director of Development Services shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons(s) having an interest in said building as shown by the land records of Newton County to repair, vacate or demolish any building found to be a

dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this City or the owner or any person having an interest in said building as shown by the land records of Newton County, may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, or a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall be issued.

5. If the owner, occupant, mortgagee, or lessee fails to comply with the order within thirty (30) days, the Director of Development Services shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant; and the Director of Development Services shall certify the cost of the work borne by the City for such repair, vacation, or demolition to the officer in charge of finance as a special assessment represented by a special tax bill against the real property affected; said cost shall be the actual cost of such repair, vacation, demolition, boarding, cleanup, utility cut, all other necessary measures, and the cost of administering the provisions of this Chapter; however, in no case shall such administrative charge exceed five hundred dollars (\$500.00); said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner unless the building or structure is demolished, secured, or repaired by a contractor pursuant to an order issued by the City and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Section 429.010 to 429.360, RSMo. Except as provided in Subsection (A)(6) of this Section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of eight percent (8%) per annum until paid.

[Ord. No. 288-2022, 3-15-2022]

6. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the Director of Development Services as provided in Subsection (5) of this Section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty

loss, the following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds, as set forth in Subdivisions (a) and (b) of this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:

a. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment, and shall pay such monies to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this Chapter.

b. The City shall release the proceeds and any interest that has accrued on such proceeds received under subdivision (a) of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of Subsection (5) of this Section. If the City has proceeded under the provisions of Subsection (5) of this Section, all monies in excess of that necessary to comply with the provisions of Subsection (5) of this Section for the removal, securing, repair and clean-up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

7. If there are no proceeds of any insurance policy as set forth in Subsection (6) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.

8. Subsection (6) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

9. Subsection (6) of this Section does not make the City a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

10. The Director of Development Services may certify in lieu of payment of all or part of the covered claim under Subsection (6) that it has obtained satisfactory

proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Director of Development Services shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (6) of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this Subsection.

Section 525.070 **Duties of the City Attorney.**

[Ord. No. 95-28 §1(7-54), 5-2-1995]

A. The City Attorney shall in regard to this Article:

1. Prosecute all persons failing to comply with the terms of the notices provided for in this Article and Subsections (4) and (8) of Section **525.050** of this Article and Subsection (2) of Section **525.060** of this Article and the order provided for in Subsection (4) of Section **525.060** of this Article.
2. Appear at all hearings before the Director of Development services in regard to dangerous buildings.
3. Bring suit to collect all municipal liens, assessments, or costs incurred by the Director of Development Services in doing or causing to be done repairing, reconditioning, removing or demolishing dangerous buildings.
4. Take such other legal action as is necessary to carry out the terms and provisions of this Article.

Section 525.080 **Duties of the Fire Department and Police Department.**

[Ord. No. 95-28 §1(7-55), 5-2-1995]

The Chief of the City Fire Department and the Chief of the City Police Department shall make a report in writing to the Director of Development Services of any dangerous buildings or structures which are, may be, or are suspected to be dangerous buildings as defined in Section **525.020** of this Article. Such reports must be delivered to the Director of Development Services within twenty-four (24) hours of the discovery of such buildings by any employee of the Fire Department or Police Department.

Section 525.090 Tests — Director of Development Services' Authority to Require.

[Ord. No. 95-28 §1(7-56), 5-2-1995]

Generally. Whenever there is insufficient evidence of compliance with the provisions of this Article or evidence that any material or any construction does not conform to the requirements of this Article, or in order to substantiate claims for alternate materials or methods of construction, the Director of Development Services may require tests as proof of compliance to be made at the expense of the owner or his/her agent.

Section 525.100 Test Methods.

[Ord. No. 95-28 §1(7-57), 5-2-1995]

Test methods shall be specified by this Article for the material in question. If there are no appropriate test methods specified in this Article, the Director of Development Services shall determine the test procedure to be used. Copies of the results of all such tests shall be retained by the Director of Development Services for a period of not less than two (2) years after the making thereof.

Section 525.110 Emergencies.

[Ord. No. 95-28 §1(7-58), 5-2-1995]

In cases where it reasonably appears that there is immediate danger to the health, safety or welfare of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Compliance Inspector shall report such facts to the Development Services Director and the Development Services Director may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section **525.060**, Subsection (5) et seq.

Section 525.120 Administrative Liability.

[Ord. No. 95-28 §1(7-59), 5-2-1995]

No officer, agent or employee of the City shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this Article. Any suit brought against any officer, agent or employee of the City as a result of any act required or permitted in the discharge of his/her duties under this Article shall be defended by the City Attorney until the final determination of the proceedings therein.

Section 525.130 Violations — Disregarding Notices or Orders.

[Ord. No. 95-28 §1(7-60), 5-2-1995]

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Development Services Director or who shall fail to proceed continuously without unnecessary delay; and any person removing any notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the Development Services Director may be deemed a separate offense.

Article II Board of Appeals

Section 525.140 Established.

[Ord. No. 95-28 §1(7-68), 5-2-1995]

There is hereby established a Board of Appeals.

Section 525.150 Composition.

[Ord. No. 95-28 §1(7-69), 5-2-1995]

A. The Board of Appeals established by this Article shall consist of seven (7) members as follows:

1. The Mayor;
2. One (1) additional member of the City Council as designated by the Council.
3. The City Manager;
4. The Chief of Police;
5. The Fire Chief;
6. The Development Services Director
7. The Chairman of the City Planning and Zoning Commission.

Section 525.160 Powers.

[Ord. No. 95-28 §1(7-70), 5-2-1995]

A. The Board of Appeals established by this Article shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Director of Development Services in the enforcement of this Article.
2. To require attendance of witnesses and production of records and other documents necessary to the conduct of full and impartial hearing.

Section 525.170 **Quorum — Organization — Procedure.**

[Ord. No. 95-28 §1(7-71), 5-2-1995]

Four (4) members of the Board created by this Article shall constitute a quorum. The Board of Appeals shall elect their own Chairman and Secretary. The City Attorney shall be present at all hearings and shall represent the position of the Director of Development Services. The appellant may be represented by Counsel.

Section 525.180 **Appeals — Generally.**

[Ord. No. 95-28 §1(7-72), 5-2-1995]

- A. Appeals to the Board established by this Article shall be taken within fifteen (15) days from the service of notice as provided for in Sections 525.050(4) and (8) and 525.060(2) of this Article.
- B. The notice of appeal shall set forth the following:
 1. The full name and address of the appellant;
 2. The name and address of counsel for the appellant, if he/she intends to appear with the counsel at the hearing;
 3. The allegations of error appealed from.
- C. An appeal stays all proceedings in furtherance of the action appealed from.

Section 525.190 **Appeal Hearings — Decision.**

[Ord. No. 95-28 §1(7-73), 5-2-1995]

- A. The Board of Appeals established by this Article shall fix a reasonable time, not less than ten (10) days, from the hearing of the appeal.
- B. The Board of Appeals shall render its decision in writing within ten (10) days of the conclusion of the hearing after which appeal may be taken to the Circuit Court as

provided by Chapter 536, RSMo. Notice of the decision of the Board of Appeals shall be given by ordinary mail:

- 1. To the appellant at the address given in the notice of appeal;
- 2. To the Director of Development Services at the City Hall.

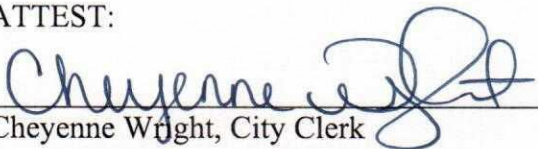
Section 2. This Ordinance shall be effective March 5, 2024.

PASSED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, this 5th day of March, 2024, by a vote of 7 YES and 0 NO.

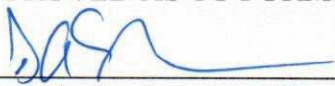


Richard Davidson, Mayor

ATTEST:


Cheyenne Wright, City Clerk

APPROVED AS TO FORM:


Derek A. Snyder, City Attorney

