

ORDINANCE
75 - 15

AN ORDINANCE AMENDING ORDINANCE 75-6 WHICH IS ENTITLED

AN ORDINANCE ESTABLISHING METHODS FOR THE REPAIR, CLOSING OR DEMOLITION UNFIT STRUCTURES IN THE CITY LIMITS OF THE CITY OF RUSSELLVILLE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, KENTUCKY, THAT:

WHEREAS the City Council has adopted Ordinance 75-5, AN ORDINANCE FINDING THAT THERE ARE UNFIT STRUCTURES WITHIN THE CITY LIMITS OF THE CITY OF RUSSELLVILLE, KENTUCKY, and;

WHEREAS the City Council of the City of Russellville has adopted Ordinance 75-6, AN ORDINANCE ESTABLISHING METHODS FOR THE REPAIR, CLOSING OR DEMOLITION UNFIT STRUCTURES IN THE CITY LIMITS OF THE CITY OF RUSSELLVILLE, and

WHEREAS the case of Johnson vs. City of Paducah, 512 SW 2nd 514 held unconstitutional the provisions of KRS 80.660 and 80.670 requiring compelled destruction, vel non, when the cost of repair exceeds 50% of value, and

WHEREAS the Council adopted as Ordinance provisions of Kentucky Revised Statutes 80.620 through 80.720 which were copied in full therein, and

WHEREAS the Ordinance provided that the City also adopted any amendments to those Sections of Kentucky Revised Statutes, NOW THEREFORE THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, KENTUCKY does amend Ordinance 75-6 by amending Item 3 thereof to provide as follows which reflects the provision of the statutes as amended by the case hereinabove referred to:

KRS 80.720 Definitions: construction

(1) As used in KRS 80.620 to 80.720, unless the context requires otherwise:

(a) "Structure" means any building, or part thereof, used or occupied, or intended for use or occupancy, for human habitation, or commercial or industrial purposes, and includes any out-buildings and appurtenances belonging thereto or usually enjoyed therewith.

(b) "Governing body" means the general council, board of commissioners, or other legislative body, charged with governing a city, and the fiscal court of any county.

(c) "Public officer" means the officer or officers who are authorized by ordinances and resolutions adopted hereunder

to exercise the powers prescribed by such ordinances and resolutions and by KRS 80.620 to 80.720.

(d) "Public authority" means any housing commission or any officer who is in charge of any department or branch of the government of the city, county or state relating to health, fire, building regulations, or to other activities concerning structures in the city.

(e) "Owner" means the holder of the title in fee simple and every mortgagee of record.

(f) "Parties in interest" means all individuals, associations and corporations who have interests of record in a structure and any who are in possession thereof.

(2) The powers converted upon cities and counties by KRS 80.620 to 80.720 shall be in addition and supplemental to the powers conferred by any other law.

KRS 80.630 Power of cities or counties to repair, close or demolish unfit structures

Whenever any city or county finds that there exists in such city or county structures which are unfit for human habitation, occupancy or use due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city or county, the city or county may exercise its police powers to repair, close or demolish such structures in the manner provided in KRS 80.640 to 80.720.

KRS 80.650 petition alleging that structure is unfit; complaint; notice and hearing

Whenever a petition is filed with the public officer by a public authority or by at least five residents of the city or county charging that any structure is unfit for human habitation, occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human habitation, occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of the parties in interest in such structure a complaint stating the charges in that respect. The complaint shall state: that a hearing will be held before the public officer (or his designated agent) at a place therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner and parties in interest may file an answer to the complaint and appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

KRS 80.660 Hearing as to unfitness; findings of fact; order

If, after the notice and hearing, the public officer determines that the structure under consideration is unfit for human habitation, occupancy or use, 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 requiring the owner:

(1) To the intent and within the time specified in the order, to repair, alter or improve the said structure to render it fit for human habitation, occupancy or use, or, at the option of the owner to vacate and close the structure if the repair, alteration, or improvement of the structure can be made

at a cost that is not more than 50% of the value of the structure; or

(2) Within the time specified in the order, to repair, alter or improve the said structure to render it fit for human habitation, occupancy or use if the repair, alteration, or improvement cannot be made at a cost that is not more than 50% of the value of the structure unless there is present an imminent and immediate threat to the safety of persons and other property in which event within the time specified in the order to remove or demolish the said structure.

KRS 80.670 Repair, closing or demolition by city when order not complied with; lien for expense

(1) If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the structure, the public officer may cause the structure to be repaired, altered or improved, or to be vacated and closed. The public officer may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human habitation, occupancy or use; the use or occupation of this building for human habitation, occupancy or use, is prohibited and unlawful."

(2) If the owner fails to comply with an order to remove or demolish the structure, which is present an imminent and immediate threat to the safety of persons and other property, the public officer may cause such structure to be removed or demolished.

(3) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition shall be a lien upon the real property upon which cost was incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of the structure and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the circuit court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

KRS 80.680 Standards

The public officer may determine that a structure is unfit for human habitation, occupancy or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of the city or county. Such conditions may include the following (without limiting the generality of the foregoing): Defects increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness. Additional standards to guide the public officer, or his agents, in determining the fitness of a structure for human habitation, occupancy or use, may be provided by ordinance or resolution.

KRS 80.685 Eviction of occupants of condemned structure.

When the public officer has condemned as unfit for human habitation, occupancy or use, any structure, pursuant to the provisions of KRS 80.620 through 80.720, and has ordered same to be vacated, the public officer may, after ten days'

notice to the occupant or occupants thereof, apply to the justice of the peace for the district in which such structure is located, and obtain from such court an order of eviction against the occupant or occupants thereof, and the constable for said district shall forthwith evict such occupant or occupants and his belongings from the said building.

KRS 80.690 Service of complaints and orders

Complaints or orders issued by a public officer pursuant to an ordinance or resolution adopted under KRS 80.620 to 80.720 shall be served upon persons either personally or by certified mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publication pursuant to KRS Chapter 424. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order, and shall be recorded in the office of the county clerk of the county wherein the structure is located.

KRS 80.700 Remedies

Any person affected by an order issued by the public officer may, within thirty days after the posting and service of the order, petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may issue a temporary injunction restraining the public officer pending the final disposition of the cause. Hearings shall be had by the court on such petition within twenty days, or as soon thereafter as possible. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

KRS 80.710 Power of city or county officers to to investigate structures and obtain evidence; employes

The governing body of the city or county may by ordinance or resolution authorize the public officer to exercise such powers as are necessary or convenient to carry out and effectuate the purposes and provisions of KRS 80.620 to 80.720 including the following powers in addition to others herein granted:

(1) To investigate the structural conditions in the city or county in order to determine which structures therein are unfit for human habitation, occupancy or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, but such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employes as he deems necessary to carry out the purposes of the ordinances; and

(5) To delegate any of his functions and powers under the ordinance to such officers and agents as he designates.

KRS 80.720 Administration of ordinance

The governing body of any city or county adopting an ordinance or resolution under KRS 80.620 to 80.720 shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the structures in such city or county for the purpose of determining the fitness of the structures for human habitation, occupancy or use, and for the enforcement and administration of its ordinances or resolutions adopted under KRS 80.620 to 80.720; and any such city or county may make such appropriations from its revenues as it may deem necessary for this purpose and may accept and apply grants or donations to assist in carrying out the provisions of such ordinances or resolutions.

and this ordinance shall not alter in any way the other provisions of that ordinance and the ordinance shall be effective immediately upon its adoption and publication.

Adopted by roll call vote this 18th day of November, 1975.

MAYOR

ATTEST:

James C. Milam
CLERK

This instrument was prepared by
James C. Milam
ATTORNEY
RUSSELLVILLE, KENTUCKY