RESOLUTION NO. 2026-07

A RESOLUTION MAKING FINDINGS OF FACT THAT THE STRUCTURE(S) LOCATED ON BLOCK 42, W 44.5' OF LOT 5 AND E 30' OF LOT 6, BURLINGTON CITY, ALSO KNOWN AS 619 HUDSON STREET, BURLINGTON, COFFEY COUNTY, KANSAS, ARE DANGEROUS, UNSAFE AND UNFIT FOR HUMAN USE OR HABITATION; DIRECTING THAT SAID STRUCTURE(S) BE REPAIRED OR REMOVED AND THE PREMISES MADE SAFE AND SECURE; FIXING A TIME WITHIN WHICH SUCH WORK SHALL BE COMMENCED; AND PROVIDING FOR THE RAZING AND REMOVAL OF SAID STRUCTURE(S) BY THE CITY UPON THE OWNER'S FAILURE TO COMPLY; PURSUANT TO CHAPTER IV, ARTICLE 6 OF THE CODE OF THE CITY OF BURLINGTON, KANSAS AND K.S.A. 12-1750 ET SEQ., AS AMENDED.

WHEREAS, on August 5, 2026, Police Chief Michael L. Roney, the enforcing officer of the City of Burlington, Kansas (the "City") designated pursuant to § 4-602 of the Code of the City of Burlington (the "City Code"), filed with the Governing Body of the City a written report pursuant to § 4-604 of the City Code stating that the structure(s) located on Block 42, W 44.5' of Lot 5 and E 30' of Lot 6, Burlington City, Coffey County, Kansas, commonly known as 619 Hudson Street, Burlington, Kansas (the "Property"), are dangerous, unsafe or unfit for human use or habitation because of dilapidation, structural defects or other conditions which render such structure(s) unsafe or otherwise inimical to the general welfare of the City; and

WHEREAS, on August 5, 2026, the Governing Body, pursuant to § 4-605 of the City Code and K.S.A. 12-1752, adopted Resolution No. 2026-04 fixing 6:10 p.m. on October 7, 2026, at City Hall, 1013 N. 4th Street, Burlington, Kansas, as the time and place at which the owner, the owner's agent, any lienholders of record and any occupant of the structure(s) could appear and show cause why the structure(s) should not be condemned and ordered repaired or demolished; and

WHEREAS, a summary of Resolution No. 2026-04 was published in The Coffey County Republican, the official city newspaper, on Thursday, August 13, 2026, Thursday, August 20, 2026, and Thursday, August 27, 2026, as shown by the affidavit of publication on file with the City Clerk, the last such publication being more than thirty (30) days prior to the date fixed for hearing; and

WHEREAS, copies of Resolution No. 2026-04 were mailed by certified mail, return receipt requested, to Roger E. Shoemaker and Edith A. Shoemaker, the owners of record of the Property, at their last known place of residence, 519 N. Louisa Ave., Williamsburg, Kansas 66095, on August 7, 2026, and again on August 21, 2026, and were received at said address as shown by

return receipts signed by "E. Shoemaker," the second of which reflects delivery on August 24, 2026, copies of which are on file with the City Clerk; and

WHEREAS, at the hearing, Roger Shoemaker, [owner(s)] [agent(s) of the owner(s)] of the Property, appeared [in person] ~~[through counsel, _____]~~; acknowledged on the record, actual receipt of notice of the hearing, stated that he/she/they had adequate time to prepare for the hearing, and waived any objection to the form, manner or timing of such notice; and

WHEREAS, on October 7, 2026, at the time and place fixed in Resolution No. 2026-04, the Governing Body conducted the hearing and heard all evidence submitted by the enforcing officer and by the owner(s), the owner's agents, and occupants having an interest in the structure(s) who appeared or responded, as follows:

(a) Evidence submitted by the enforcing officer:

The fascia was rotted, the foundation is broken and sunkren down, wood floors inside are heaved; the floor is covered in feces, roaches, and fleas; neighbors' complaints on the property and multiple arrests there. Documentary evidence is Exhibit A.

(b) Appearance and evidence of the owner(s) and/or agent(s):

appeared [in person] [by counsel] and submitted oral testimony.

[no owner or agent appeared, and no written response was received]

(c) Appearance and evidence of lienholders of record and occupants: [none appeared]

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF BURLINGTON, KANSAS:

Section 1. Findings of Fact. Pursuant to § 4-607 of the City Code, and based upon the evidence presented at the hearing, the Governing Body makes the following findings of fact:

(a) The owner(s) of record of the Property are Roger E. Shoemaker and Edith A. Shoemaker.

(b) The structure(s) on the Property subject to this Resolution consist of: a single-family dwelling.

one time per month for the last six months. Last inspection occurred on October 7, 2026

(c) The enforcing officer inspected the structure(s) on ~~[and on _____]~~; and the structure(s) have been vacant since approximately N/A.

(d) The structure(s) exhibit the following conditions:

(1) Roof and roof structure: Trusses are broken, shingles are in bad shape and heaved from the degradation of the foundation, soffits are rotted off.

(2) Foundation and structural members: Stone foundation broken and sagging; heaving parts of the floor.

(3) Exterior walls, siding, windows and doors: The front door is laying on the floor; it is taken off of the hinges.

(4) Openings and security (unsecured entry, open to weather or trespass): The posts are rotted away. The Masonite siding is broken down. The windows are broken, and the windows are shifting due to settling in the foundation.

(5) Utilities, sanitation and interior conditions: Chief was not aware of any electric power or water on the property. Animal defecation all through the house.

(6) Fire and accident hazards: Fire hazard due to deterioration of the property. It could be pulling on electrical wires.

(7) Other: Floors may give way due to the heaving, and the property could give way.

(e) The appraised value of the Property as shown by the records of the Coffey County Appraiser is $ 41,420.00.

(f) The Governing Body has considered the evidence submitted by the [owner(s)] ~~[and by _____]~~, ~~including~~ and the Chief of Police, and finds that ~~such evidence~~ [does not establish that the structure(s) are safe or will be ~~timely~~ repaired] [_____], because _____

OR Repair of the structure(s) is not reasonably feasible because of the extreme degradation of the structure.

(h) By reason of the foregoing conditions, the structure(s) are unfit for human use or habitation, are unsafe and dangerous, are inimical to the general welfare of the City, and constitute a general blight upon the neighborhood and surrounding properties.

Section 2. Determination. Based upon the findings of fact set forth in Section 1, the Governing Body hereby determines that the structure(s) located on the Property are dangerous, unsafe and unfit for human use or habitation within the meaning of § 4-607 of the City Code and K.S.A. 12-1753.

Section 3. Order to Repair or Remove.

The owner(s) of the Property are hereby directed to either (i) repair the structure(s) so as to render them safe, secure and fit for human use or habitation in compliance with all applicable codes of the City, or (ii) raze and remove the structure(s), and in either case to make the premises safe and secure. Any repair shall be performed under permits issued by the City and shall be subject to inspection and approval by the enforcing officer.

Such work shall be commenced within fourteen (14) days after the date of publication of this Resolution and shall be diligently prosecuted until completed, and shall in any event be completed within thirty (30) days after such publication. For purposes of this Resolution, work shall be deemed "commenced" when the owner has obtained all permits required by the City and has begun physical work on the Property.

Section 4. Failure to Comply. If the owner(s) of the structure(s) fail to commence the repair or removal of the structure(s) within the time stated in Section 3, or fail to diligently prosecute the same until the work is completed, the Governing Body will cause the structure(s) to be razed and removed. In such event, the enforcing officer is hereby authorized and directed, pursuant to § 4-609 of the City Code, to cause the structure(s) to be razed and removed, subject to such procurement requirements as may apply under the City Code and City policy.

Section 5. Site Restoration. Upon removal of the structure(s), the owner(s) shall fill any basement, cellar, well, cistern or other excavation located upon the premises, remove all debris, and take any other action necessary to leave the premises in a safe condition. If the owner(s) fail to do so, the enforcing officer may proceed to make the site safe pursuant to § 4-610 of the City Code.

Section 6. Costs. If the City causes the structure(s) to be razed and removed or the site to be made safe, the cost thereof, including the cost of providing notice, shall be recovered as provided in § 4-611 of the City Code and K.S.A. 12-1755, as amended, including: notice to the owner(s) of such cost by restricted mail, with payment due within thirty (30) days following receipt; application of the proceeds of the sale of any salvage and of any insurance proceeds in which the City holds a lien pursuant to K.S.A. 40-3901 et seq. and Chapter VIII, Article 6 of the City Code; and collection of any unpaid balance in the manner provided by K.S.A. 12-1,115, as amended, or by special assessment against the lot or parcel of land upon which the structure(s) are located, or both, until the full cost and applicable interest have been paid in full.

Section 7. Publication and Mailing. Pursuant to § 4-607 of the City Code and K.S.A. 12-1753, the City Clerk is hereby directed to cause this Resolution to be published once in the official city newspaper and, within three (3) days after such publication, to mail a copy of this Resolution by certified mail, restricted delivery, marked "deliver to addressee only," separately to each owner, agent, lienholder of record and occupant of the structure(s) at his, her or its last known place of residence or business.

Section 8. Notice of Right to Appeal. Pursuant to § 4-613 of the City Code, any person affected by the order contained in this Resolution may, within thirty (30) days following service of this Resolution, petition the District Court of Coffey County, Kansas, for an injunction restraining the enforcing officer from carrying out the provisions of this order pending final disposition of the case.

Section 9. Effective Date. This Resolution shall take effect and be in force from and after its adoption by the Governing Body and its publication once in the official city newspaper.

ADOPTED by the Governing Body of the City of Burlington, Kansas, this 7th day of October, 2026.

CITY OF BURLINGTON, KANSAS

By: _____
Robert S. Luke, Mayor

(SEAL)

ATTEST:

_____
Kerri Weltha, Deputy City Clerk

APPROVED AS TO FORM:

_____
Philip Wright, City Attorney