

# PROPERTY MAINTENANCE UNIT

## Standard Operating Procedure PMU 10

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<b>Title: Emergency Demolition</b>
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### I. Purpose

- A. The purpose of this procedure is to provide direction and a process to properly identify, document, report, effectually serve notice of, and execute the emergency demolition of dangerous unsafe structures as defined by the 2012 International Property Maintenance Code (IPMC) as codified in Chapters 8.60 & 8.75 of the latest version of the code of the city of Topeka, Kansas, hereafter referred to as the "Code".
- B. It is the policy of the Property Maintenance Unit to identify, document, report, notify and demolish dangerous unsafe structures through a documented and expedited emergency process that includes the collection of evidence, case management, data entry, and the service of legal notification as stipulated by the Code and Kansas State Statutes.

### II. Definitions

- A. Abandoned Property - "Any residential real estate for which taxes are delinquent for the preceding two years and which has been unoccupied continuously by persons legally in possession for the preceding 90 days or commercial real estate for which the taxes are delinquent for the preceding two years and which has a blighting influence on surrounding properties." (KSA 12-1750)
- B. Approved - "Approved by the code official." (IPMC 202)
- C. Code Official - "The official who is charged with the administration and enforcement of this code, or any duly authorized representative." (IPMC 202) NOTE: The duly authorized representatives for the administration and enforcement of this Unsafe Structure Violations Standard Operating Procedure are the Property Maintenance Inspectors that are assigned to the Special Structures Unit of the Property Maintenance Unit.
- D. Commercial Real Estate - "Any real estate for which the present use is other than one to four residential units or for agricultural purposes." (KSA 12-1750)
- E. Condemn - "To adjudge unfit for occupancy." (IPMC 202)
- F. Dangerous Unsafe Structures - For the purpose of this code, any structure that has any or all of the conditions or defects described in section 108.1.5 of the IPMC shall be considered dangerous. (IPMC 108.1.5)
- G. Easement - "That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots." (IPMC 202)
- H. Gender - "Words importing the masculine gender include the feminine and neuter." (TMC 1.10.020)

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- I. Imminent Danger - "A condition which could cause serious or life-threatening injury or death at any time." (IPMC 202)
- J. K.S.A. - "The abbreviation "K.S.A." shall mean the Kansas Statutes Annotated, as amended." (TMC 1.10.020)
- K. Number - "Words used in the singular include the plural, and words used in the plural include the singular." (TMC 1.10.020)
- L. Occupancy - "The purpose for which a building or portion thereof is utilized or occupied." (IPMC 202)
- M. Occupant - "Any individual living or sleeping in a building, or having possession of a space within a building." (IPMC 202)
- N. Owner - "Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court." (IPMC 202)
- O. Person - "An individual, corporation, partnership or any other group acting as a unit." (IPMC 202)
- P. Premises - "A lot, plot or parcel of land, easement or public way, including any structures thereon." (IPMC 202)
- Q. Property - A lot, plot or parcel of land, easement or public way, including any structures thereon. This term is intended to be synonymous with the term "Premises", as used in the Code.
- R. Public Way - "Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use." (IPMC 202)
- S. Structure - "That which is built or constructed or a portion thereof." (IPMC 202)
- T. TMC - The abbreviation "TMC" shall mean the Topeka Municipal Code as used in references to sections of the code of the city of Topeka, Kansas.
- U. Unreasonable to Repair - "'Unreasonable to repair' means that the repair costs exceed 30% of the replacement value of the structure as established by the Shawnee County Appraiser." (TMC 8.60.100)

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- V. Unsafe Structure - "An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible." (IPMC 108.1.1)

### III. Applicable Codes

- A. Dangerous Unsafe Structures - "When in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents, lienholders and occupants." (K.S.A. 12-1756)
- B. Demolition - Demolition is described in IPMC 110, as amended by TMC 8.60.100.
- C. General - "The Code Official is hereby authorized and directed to enforce the provisions of this code. The Code Official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code." (IPMC 104.1)
- D. Identification - "The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code." (IPMC 104.4)
- E. Imminent Danger - "When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same." (IPMC 109.1)

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- F. Inspections - "The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority." (IPMC 104.2)
- G. Method of Service - Methods of service are described in IPMC 107.3, as amended by TMC 8.75.030.
- H. Notices - Notices are described in IPMC 107, as amended by TMC 8.75.020.
- I. Notices and Orders - "The Code Official shall issue all necessary notices or orders to ensure compliance with this code." (IPMC 104.5)
- J. Records - "The Code Official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records." (IPMC 104.6)
- K. Right of Entry - "Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry." (IPMC 104.3)
- L. Unsafe Structures - "The governing body has determined that structures exist within the city that are so deteriorated, dilapidated, or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy such that it is unreasonable to repair the structure." (TMC 8.75).
- M. Violations, Abatements, Fees - Violation prosecution, penalties, abatement and fees are described in IPMC 106, as amended by TMC 8.60.070 and TMC 8.75.060.

#### IV. Procedure

- A. Notification of Dangerous Unsafe Structures
  1. The Code Official is informed of dangerous unsafe structures by the local news media, the Topeka Fire Department (TFD) News Release or other Code Official.
  2. The TFD News Release contains an estimated dollar loss for the structure and contents, which helps to determine the severity of the damage.

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### B. Inspection of Dangerous Unsafe Structures

1. The Code Official shall inspect a dangerous unsafe structure when it is safe to do so and does not interfere with other government officials or insurance company inspectors.
2. When a structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the Code Official may cause barricades to be erected and the dangerous unsafe structure to be demolished without delay and without notice of a hearing to the owners, agents, lienholders and occupants.
3. The Code Official shall appropriately document the dangerous unsafe structure conditions.
  - a. Photographs shall be taken of the damage to the exterior of the structure
  - b. If the structure is not secure and it is safe to do so, photographs shall also be taken of the damage to the interior of the structure.
  - c. Notes from personal observations shall be made and other relevant evidence shall be collected.

### C. Opening a New Case

1. The Code Official shall open a new Unsafe Structure (Emergency) case in the database.
2. The Code Official shall identify the location of the dangerous unsafe structure by the correct parcel and assigned address number (if an address number has been assigned). This will apply to common addresses, as well as legal addresses.
3. The Code Official shall attach all documentation associated with the damage, including photographs, notes, etc. to the case.

### D. Property and Owner Information

1. The Code Official shall collect property and owner Information, which includes:
  - a. Property owner – from the SNCO Appraiser’s database.
  - b. Property record card (PRC) - from the SNCO Appraiser’s database.
  - c. Property tax status – from the SNCO Appraiser’s database.
  - d. Deed – from the SNCO Register of Deeds database.
  - e. Structure Sketch – from the SNCO Appraiser’s database.
  - f. Water service status – from the City of Topeka’s (COT’s) Customer Information System.
  - g. Property map – from the COT’s Map database.
  - h. Obituary (if applicable) – from the Topeka Capital Journal or the internet.
  - i. Purchaser under contract (PUC), Taxpayer & Mortgage Company – from the case Location Record.
  - j. Property owner contact Information (current address and phone number) - from the real estate records, the COT’s Customer Information System, the PRC, the deed, the POLK directory, the telephone directory and the Internet.
    - i. Company owner, registered office and/or resident agent contact information from the State of Kansas Business Entity website.

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- ii. Deceased owner probate filing information from the SNCO District Court Public Access database.

### E. Emergency Order

1. The Code Official shall process an Emergency Order that lists the property address, describes the damage and states that the dangerous and unsafe conditions require immediate action be taken to demolish the structure without delay to preserve and protect public safety.
2. The Code Official shall have the Emergency Order approved by the Division Director or his designee.
3. The Code Official shall attempt to contact the property owner by phone or in person and inform them that they must take immediate action to demolish the dangerous unsafe structure or the City will initiate the demolition process.
4. The Code Official shall send the Emergency Order to the property owner by first class mail. Personal service may be substituted for first class mail.
5. The Code Official shall post the Emergency Order in a conspicuous place on the premises and take one up-close photograph of the Emergency Order and a second photograph of the front of the structure with the property address and the Emergency Order visible.
6. The Code Official shall also post at each entrance to a structure a placard bearing the words "DANGER-KEEP OUT" when:
  - a. There is imminent danger of failure or collapse of a building or structure which endangers life.
  - b. The structure or part of a structure has fallen and life is endangered by the occupation of the structure.
  - c. There is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment
7. The Code Official shall take one up-close photograph of the placard and a second photograph of the placard and the background of the posting for identification purposes.
8. If contact was not made with the property owner or the property owner did not agree to take action to demolish the structure, the Code Official shall move forward with the demolition process.
9. If contact was made with the property owner and the property owner agreed to take action to demolish the structure, the Code Official shall monitor the case for the amount of time given the property owner to comply.
10. If the property was being monitored, the Code Official shall re-inspect the property following the date and time specified.

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- a. If the dangerous unsafe structure has been demolished, the Code Official shall take photographs of the current condition of the property. The photographs shall be submitted as part of the case evidence to justify closing the case.
- b. If the dangerous unsafe structure has not been demolished, the Code Official shall take photographs of the current condition of the property and attach them to the case. The photographs shall be used as evidence when proceeding with the demolition process.

### F. Demolition Process

1. The Code Official shall review the case file on the database to ensure that all procedures have been followed before proceeding with the demolition process.
2. The Code Official shall contact two demolition contractors for demolition bids.
3. The Code Official shall notify utility companies to disconnect utilities.
4. The Code Official shall notify Contracts and Procurement of which demolition contractor has been selected and the amount of the bid.
5. Contracts and Procurement will process the Purchase Order (PO).
6. The Code Official shall process the KDHE 10 Day Notice Form and contact KDHE to request a waiver of the 10 days.
7. Contracts and Procurement will send a copy of the PO to the Code Official when it has been approved and processed.
8. The Code Official shall send a copy of the PO to the awarded Demolition Contractor.
9. The Demolition Contractor shall provide a copy of the Demolition Permit to the Code Official.
10. The Code Official shall issue the Notice to Proceed to the Demolition Contractor after confirming that :
  - a. KDHE has approved the notice.
  - b. Utility companies have disconnected the utilities.
11. The Demolition Contractor shall demolish the dangerous unsafe structure.
12. The Code Official shall inspect the site to ensure that all debris was removed before the Demolition Contractor is permitted to backfill a basement excavation.
13. Engineering shall verify that the sewer was properly capped before the Demolition Contractor is permitted to backfill a sewer line excavation.
14. The Code Official shall conduct a final inspection of the property to ensure that the demolition was completed properly.

### G. Process Fees - Billing

1. Administrative Staff shall generate a "Total Cost Bill" which shall include all costs associated with the case.
2. Administrative Staff shall send the bill to the property owner by certified mail.
3. The property owner may appeal all or part of the bill in accordance with the Administrative Hearings Standard Operating Procedure.
4. The request for appeal must be submitted in writing within ten (10) business days of the date on the bill.

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5. Administrative Staff shall be responsible for coordinating a payment plan, if requested by the property owner.
  6. If the bill is not paid within thirty (30) days of the date on the bill and a payment plan was not established, Administrative Staff shall send a "Final Bill", by first class mail, to the property owner as a reminder.
  7. The property owner may not appeal all or part of the "Final Bill" because the request for appeal must be submitted in writing within ten (10) business days of the date on the "Total Cost Bill".
  8. If the bill is not paid within ten (10) days of the date on the "Final Bill" and a payment plan was not established, Administrative Staff shall send the unpaid bill to collections and proceed with filing an assessment to the property owner's property tax bill.
- H. Payment Plan - If a payment plan has been established the payment must be made monthly. If a payment is skipped the bill will be sent to collections and/or assessed to property taxes. Bills on payment plans must be paid within ten (10) years from the date of the bill.
- I. Closing the Case - Administrative Staff shall close the case when the bill is paid or when the unpaid bill has been sent to collections and an assessment to the owner's property tax bill has been filed.

### **V. Case Management**

- A. During the process of identifying, reporting and managing a case, the Code Official shall pursue voluntary compliance above all other means to remedy the case.
- B. The Code Official shall be available for correspondence concerning current and past cases during assigned working hours via cell phone, personal contact, email or other means of electronic communication.
- C. The Code Official shall, upon request, provide the property owner or occupant with a list of resources for assistance.


### **VI. Procedure Modifications**

- A. This procedure shall be reviewed on a biennial basis on or before March 1<sup>st</sup> or as necessary based on revisions to the policy and/or the Code.
- B. This procedure may only be amended, changed or modified by the Division Director, or his designee.



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 _____ John Schardine, Director Code Services Property Maintenance Unit	April 24, 2023 _____ Date Approved
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