

CHAPTER 510: DANGEROUS AND NUISANCE BUILDING CODE**SECTION 510.010: TITLE OF CHAPTER**

The provisions contained in this Chapter may be referred to as the Dangerous and Nuisance Building Code of the City, and may be cited as such in any proceedings under this Chapter.

SECTION 510.020: CONDITIONS WHICH CONSTITUTE A DANGER OR PUBLIC NUISANCE

Any building or structure having any of the following conditions is hereby declared a dangerous building or structure, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered and constitute a public nuisance:

1. Those whose exterior or interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity of any such wall or vertical structure members fall outside of the middle third (3rd) of its base.
2. Those which, exclusive of the foundation, show thirty-three percent (33%) or more, of damage or deterioration of the supporting member or members, or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those where the stress in any materials, structural member or members, due to all dead and live loads, is more than one and one-half (1½) times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Those having any non-supporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%), of the:
 - a. Strength;
 - b. Fire-resisting qualities or characteristics; or
 - c. Weather-resistant qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same locations.
5. Those where any portion or member or appurtenance of a building or structure is likely to fail, or to become detached or dislodged or to collapse and injure a person or damage property.
6. Those where any portion of the building or structure has wracked, cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquake than is required in the case of similar new construction.

7. Those where any portion of the building or structure which, because of:
 - a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; or
 - d. The deterioration, decay or inadequacy of its foundation is likely to partially or completely collapse.
8. Those, as determined by any Law Enforcement Agency, that have been deemed dangerous due to the illegal use, manufacture, or storage of a controlled substance as defined by this Code.
9. Those under construction, or a fire damaged structure upon which no current building permit is held and no substantial work performed for the immediate proceeding thirty (30) calendar days, and such conditions or defects exist to the extent that the property or safety of the public or its occupants are endangered.
10. Those in the process of demolition upon which work has ceased to the point that substantial progress has not been made for a period of thirty (30) consecutive calendar days after written notice has been issued under Section 510.060 for the completion or demolition of a building or structure or any portion of the building or structure remains on a site after the demolition or destruction of the building or structure.
11. Those which are used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness, disease or injury.
12. Those where, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, are determined by the Building Official or Fire Marshall to be a fire hazard.
13. Those having any door, aisle, passageway, stairway or other means of exit that is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
14. Those where the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

15. Those where any portion of a building, or any member, appurtenance or ornamentation on the exterior is not of sufficient strength or stability, or is not so anchored, attached or fastened in place to be capable of resisting wind pressure of one half of that specified in the Building Code for new buildings of similar construction, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
16. Those that have been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this Code, or of any law or State statute or City ordinance relating to the condition, location or structure of buildings.
17. Those buildings which are abandoned for a period in excess of six (6) months and that constitute a nuisance or hazard to the public, due to the electrical, plumbing, mechanical, or other systems being totally or partially damaged, destroyed, disconnected, removed, or otherwise made inoperable, unsafe or unsanitary, or such conditions or defects exist to the extent that the property or safety of the public or its occupants are endangered.

SECTION 510.030: DUTIES OF BUILDING OFFICIAL

The Building Official may from time to time appoint persons to inspect dangerous buildings. The Building Official or designated inspector shall:

1. Inspect any building or structure about which complaints are filed by any person alleging that the building or structure contains any of the conditions described in Section 510.020 of the City Code.
2. Inspect any building or structure reported by any Department of the City which has reason to believe that the building or structure has any of the conditions described in Section 510.020 of the City Code.
3. Inspect any building or structure of the City at any time whenever there is reason to believe that the building or structure has a condition described in Section 510.020 of the City Code.
4. Post any building, structure or property, when it reasonably appears that there is an immediate danger to the health, safety or welfare of any persons because of any condition described in Section 510.020, of the City Code, with a written notice reading substantially as follows:

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

The order by the Building Official and the posting of the written notice shall not be construed to deprive any person entitled by this Chapter to the written notice and hearing prescribed in Chapter 540 of the City Code.

5. Inspectors shall report to the Building Official any noncompliance with any written notice given under this Chapter.
6. The Building Official may request an inspection be made by an architect or engineer contracted by the City specifically for the purpose of determination of whether a building or structure is dangerous or a public nuisance.
7. The Building Official shall report in writing to the Board of Appeals the non-compliance with any written notice provided to the property owner, occupant or lessee.
8. The Building Official shall appear at all hearings conducted by the Board of Appeals.

SECTION 510.040: INSPECTIONS BY PERSONS OTHER THAN BUILDING OFFICIAL OR THEIR DESIGNEE

The Building Official may request inspections be made by any Department of the City, appropriate agency or by any person who might have knowledge and information useful in the determination of whether a building or structure is a public nuisance or, if so, how it might be alleviated.

SECTION 510.050: STANDARDS FOR DETERMINING ACTION REQUIRED TO ALLEVIATE PUBLIC NUISANCE

Whenever any building or structure constitutes a public nuisance under the provisions of this Chapter, the Building Official shall prepare an order of abatement utilizing the following standards:

1. If the conditions which cause the building or structure to be a public nuisance can be reasonably repaired or maintained so that the building or structure will no longer exist in violation of the terms of this Chapter, the building or structure shall be ordered so repaired or maintained, and if it is not repaired or maintained by the owner within a reasonable time frame as established by the Building Official but not to exceed forty-five (45) days to commence work, then the City may abate the nuisance by repairing, securing, boarding, demolition or other appropriate means.
2. In any case where the state of deterioration of a building or structure constituting a public nuisance is such that necessary repairs would amount to a substantial reconstruction of the building or structure, it shall be ordered repaired or demolished, and if it is not repaired or demolished by the owner within a reasonable time frame as established by the Building Official but not to exceed forty-five (45) days to commence work, then the City may abate the nuisance by repairing, securing, boarding, demolition or other appropriate means.

3. In all cases where the conditions causing the building or structure to be a public nuisance cannot be reasonably repaired or maintained so that the building or structure will no longer exist in violation of the terms of this Chapter, the building or structure shall be demolished.
4. If the conditions are such as to make the building or structure immediately dangerous to the health, safety or welfare of its occupants, the building or structure shall be ordered vacated pending abatement of the nuisance.
5. Any building or structure constituting a public nuisance because of the conditions described in Section 510.020 of this Chapter shall be ordered to be completed in accordance with lawful plans and specifications, and if not completed or demolished by the owner within the time specified in the order of abatement, then the City shall abate the nuisance by demolition.

SECTION 510.060: NOTICE OF PUBLIC NUISANCE AND ORDER OF ABATEMENT

Whenever it has been determined that any building or structure is a public nuisance under the provisions of this Chapter, the Building Official shall prepare a written notice and order of abatement and notify the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building or structure as shown by the land records of the Cass County Recorder of Deeds, that such building or structure has been found to be a public nuisance under the provisions of this Chapter.

The written notice shall:

- a. Be delivered either by personal service or by certified mail, return receipt requested. Mail returned by the United States Post Office marked "refused" shall constitute proof of service. If service cannot be accomplished by either of these methods, then service may be accomplished by publication for two (2) consecutive weeks in a newspaper qualified to publish legal notices for the City;
- b. State that the owner, occupant or lessee must vacate, vacate and repair, 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 written notice and this Chapter
- c. state that the mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Cass County may, at their own risk, repair, vacate or demolish the building and clean up the property or have such work done; and
- d. Set forth the description of the conditions found in the building or structure under Section 510.020 of this Chapter.
- e. Provide a reasonable time as established by the Building Official but not to exceed forty-five (45) days to commence work to abate the nuisance; require the work to proceed continuously without unnecessary delay; and require the work to be completed by the deadline established in the written notice.

SECTION 510.070: BOARD OF APPEALS

A. The Board of Appeals shall have the power pursuant to this Chapter to:

1. Hold a hearing upon receipt of a report from the Building Official indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having an interest in said building to commence work as they have ordered within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay.
 - a. 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 Cass County Recorder of Deeds to appear before the Board of Appeals on the date specified in the written 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 Building Official's written notice as provided herein.
 - b. Any party may be represented by counsel and all parties shall have an opportunity to be heard.
 - c. 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 510.020 of this Chapter.
 - d. 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 Board of Appeals 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 the Cass County Recorder of Deeds 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 the Cass County Recorder of Deeds may vacate and demolish said dangerous building at their 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.
 - e. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the City's Board of Appeals shall cause such building or structure to be

repaired, vacated or demolished and the property cleaned up as the facts may warrant. If the City's Board of Appeals issues an order whereby the building or structure is demolished, secured or repaired or the property is cleaned up, the cost of performance shall be certified to the City Clerk who shall cause a special tax bill or assessment against the property to be prepared and collected by the Finance Department or other official collecting taxes, 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.

2. Hear and decide upon an appeal of an interpretation or decision made by the Building Official regarding a dangerous building.
- B. An appeal shall be filed in the same manner as described in Chapter 540: Board of Appeals of the City Code.

SECTION 510.080: OWNER TO ALLOW ENTRY FOR THE PURPOSE OF INSPECTION

- A. If at such time any of the conditions listed in Section 510.020 of this Chapter are determined to be in existence by the Building Official for any building or structure in the City, the owner of the property shall, upon request, provide entry to an inspector of the City to determine the existence of additional nuisance violations.
- B. If the City inspector has requested entry to a building from the property owner and if consent is refused, the Building Official may seek an administrative search warrant for entry as provided for in Section 500.040(F)1 of the City Code.

SECTION 510.090: USE OF INSURANCE PROCEEDS; REIMBURSEMENT OF CITY'S COST

- A. If there are proceeds of any insurance policy based on a covered claim payment for damage or loss to a building or structure arising out of or caused by fire, explosion or other casualty loss, and the covered claim payment exceeds fifty percent (50%) of the face value of the policy covering such building or structure, then the insurer shall pay to the City Finance Department a sum equal to twenty-five percent (25%) of the insurance proceeds of the covered claim, within thirty (30) days of the determination of coverage, to be held by the City in an interest-bearing account. Nothing in this Section shall be construed to affect the priority of a named mortgagee on the insurance policy to the proceeds of the policy. The proceeds shall be used to reimburse the City for its costs in the removal of such building or structure, if necessary.
- B. The City shall release the proceeds and any interest that has accrued on such proceeds received to the insured or as the terms of the policy and endorsements within thirty (30) days after receipt of such insurance proceeds, unless the City has instituted legal proceedings under the provisions of Section 510.070A(1)(e) of this Chapter. If the City has proceeded under the provisions of Section 510.070A(1)(e) of this Chapter, all insurance proceeds in excess of that necessary to

comply with the provisions of Section 510.070 of this Chapter for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, shall be paid to the insured.

- C. If there are no proceeds of any insurance policy as set forth in Subsection (A) of this Section, at the request of the taxpayer, the tax bill may be paid in equal installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- D. Subsection (A) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- E. It shall be unlawful for an insurance carrier to fail to pay insurance proceeds to the City after being notified pursuant to this Chapter.
- F. Subsection (A) 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.
- G. The Board of Appeals may certify in lieu of payment of all or part of the covered claim under Subsection (A) 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 Board of Appeals 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 (A) 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 510.100: APPEAL

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Cass County Recorder of Deeds may, within thirty (30) days from the receipt of the order of the City Board of Appeals, appeal such decision to the Circuit Court of Cass County pursuant to the procedure established in Chapter 536, RSMo.

SECTION 510.110: EMERGENCIES

In all cases where it reasonably appears that there is immediate danger to the health, life or safety of any person, the Building Official shall seek approval from the City Manager or Mayor, to take emergency measures to vacate, repair or demolish a dangerous building or structure which is a public nuisance under the provisions of this Chapter. The Building Official shall immediately report such facts to the City's Board of Appeals and the Board may cause the costs of such emergency repair, vacation or demolition to be collected in the same manner as provided in Sections 510.070 and 510.090 of this Chapter.

SECTION 510.120: VIOLATIONS—DISREGARDING NOTICES OR ORDERS

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish the building or structure given by the Building Official and/or the City's Board of Appeals or who shall fail to proceed continuously without unnecessary delay; and any person removing any written notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall, upon conviction or a plea of guilty, be subject to the penalty provisions provided for in Section 100.220 of the City Code. Each day that a person fails to comply with an order of the City's Board of Appeals may be deemed a separate offense.

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