

**PROPERTY MAINTENANCE
CODE
FOR
RILEY COUNTY, KANSAS**



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RESOLUTION NUMBER 122914-54
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
ON DECEMBER 29, 2014

CHAPTER 1

SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *Property Maintenance Code for Riley County, Kansas*, herein referred to as the “code.”

101.2 Scope. The provisions of this code shall apply to all existing residential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, sanitation, and for safe and *sanitary* maintenance; the responsibility of *owners, or operators*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and/or maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

101.5 Time Computation. Unless otherwise provided herein, the deadline for compliance with any notice or order issued hereunder shall be 30 calendar days from the other’s date of mailing or posting. Unless otherwise provided herein, the deadline for taking any action required by this code shall be 30 calendar days. If the 30th day falls on a Saturday, Sunday or legal holiday, the period of time continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday. The code official and, upon appeal the Board of County Commissioners, may extend the foregoing deadlines for compliance or action, if reasonable cause exists.

SECTION 102 APPLICABILITY

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of

this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. The *owner* or the *owner’s* designated agent shall be responsible for the maintenance of buildings, structures and *premises*.

102.3 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner.

102.4 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are determined by the *code official* to be safe.

102.5 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 – ADMINISTRATION AND ENFORCEMENT

SECTION 103 ASSIGNMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 General. The duties of property maintenance inspection are hereby assigned to the Riley County Planning & Development Department (“Department”) and the Director of the Department shall be known as the *code official*.

103.2 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the Board of County Commissioners, the *code official* shall have the authority to appoint one or more deputies. Those deputies shall have such powers as delegated by the *code official*.

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 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

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purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Inspections. The *code official* may accept reports of inspection by *approved* agencies or individuals, on behalf of owners or occupants. All reports of such inspections shall be in writing and be certified by an officer of such *approved* agency or by the approved 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 Board of County Commissioners.

104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, the *code official* shall attempt to obtain consent of the owner or the occupant of the structure or premises. If entry is refused the *code official* shall have recourse to the remedies provided by law to secure entry. If such structure or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the owner or occupant 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.

104.4 Identification. The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

104.5 Notices and orders. The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

104.6 Department records. The *code official* shall keep official records of all business and activities of the department undertaken pursuant to this code. Such records shall be retained for the period required for public records.

SECTION 105 APPROVAL

105.1 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been certified by an independent engineer, that the material, method or work offered is at least the equivalent of that

prescribed in this code in quality, strength, effectiveness, durability and safety.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, business, corporation or other organization to violate any provisions of this code.

106.2 Notice of violation. The *code official* shall serve a notice of violation in accordance with Section 107.

106.3 Prosecution of violation. Any person, business, corporation or other organization failing to comply with a notice of violation shall be referred by the code official to the County Counselor for prosecution. The County Counselor may file equitable actions, including but not limited to: injunction, restraining orders or other civil relief. Such actions shall be governed by the Kansas Code of Civil Procedure.

106.4 Violation penalties. In addition to the enforcement procedures provided in 106.3, any violation of any provision of this code shall be deemed to be a misdemeanor and shall be punishable by a fine not to exceed \$500.00 for each offense, or by imprisonment in the county jail for not more than one month, or by both fine and confinement. Each day's violation shall constitute a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*. Nothing in this code shall be construed to abrogate or impair the authority of the courts or of any department of the County to enforce any provision of this code, or their authority to prevent or punish violations. The powers conferred by this code shall be in addition to and supplemental to the powers conferred by the constitution, any other law or resolution.

SECTION 107 NOTICES AND ORDERS

107.1 Notice. Whenever the *code official* has grounds to believe that a violation has occurred, notice shall

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be given in the manner prescribed in Sections 107.2 and 107.3 to the person, business, corporation or other organization responsible for the violation as specified in this code.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.

107.3 Method of service. Such notice shall be deemed to be properly served when a copy thereof is:

1. Delivered personally; or
2. Sent by certified mail.
3. If certified mail is returned showing the letter was not delivered, regular first class mail shall be sent to the last known address and a copy of the notice shall be posted in a conspicuous place in or about the structure affected by each notice.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

SECTION 108 DEMOLITION

108.1 General. The *code official* shall order the *owner* of any *premises* upon which is located any structure which, in the *code official's* judgment, is dangerous, unsafe, unsanitary or otherwise unfit for human occupancy to demolish and remove such structure; or to repair and make safe and sanitary; or to board up and hold for future repair. Boarding the building up for future repair shall not extend beyond six months, unless *approved* by the *code official*.

108.2 Notices and orders. All notices and orders shall comply with Section 107.

SECTION 109 MEANS OF APPEAL

109.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of County Commissioners, provided that a written application for appeal, on a form provided by the Planning and Development Department, is filed with the County Clerk within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

109.2 Hearing. The board shall hear the appeal within 30 days of the filing of an appeal.

109.3 Open Hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person directly affected shall be given an opportunity to be heard.

109.3.1 Procedure. Hearing procedures shall not require compliance with strict rules of evidence.

109.4 Postponed hearing. The board may postpone or continue a hearing at its sole discretion.

109.5 Board decision. The board may affirm, modify or reverse the decision of the *code official* by a majority vote.

109.5.1 Records and copies. The decision of the board shall be recorded in the regular minutes of the board. After the minutes are approved by the board, copies shall be furnished to the appellant and to the *code official*.

109.5.2 Administration. The *code official* shall take action in accordance with the decision of the board.

109.6 Court review. Any party aggrieved by the decision of the board may appeal to the district court as provided by law.

109.7 Stays of enforcement. Appeals of notice and orders shall stay the enforcement of the notice and order until the appeal is heard by the board.

CHAPTER 2

DEFINITIONS

SECTION 201

GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 202

GENERAL DEFINITIONS

APPROVED. *Approved by the code official.*

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person other than the legal *owner(s)* of the property.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

INFESTATION. The presence within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The presence of a person in a structure.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

OWNER. Any person, agent, or *operator* 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.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PREMISES. A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

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.

SANITARY. Relating to the conditions that may have an adverse effect on human physical development, health, and survival, including, but not limited to, adequate sewage facilities and clean drinking water.

STRUCTURE. That which is built or constructed or a portion thereof.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

CHAPTER 3

GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of *persons* for maintenance of structures and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A *person* shall not occupy as owner-occupant or permit another person to occupy *premises* which do not comply with the requirements of this chapter.

301.3 Vacant structures and land. All vacant structures and *premises* or vacant land shall be maintained in a safe and sanitary condition as provided herein so as not to adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a safe and *sanitary* condition.

302.2 Rodent harborage. All structures and *exterior property* shall be kept free from rodent *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent reinfestation.

302.3 Accessory structures. All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

302.4 Refrigerators. Refrigerators and similar appliances not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

SECTION 303 UNSAFE, UNFIT FOR HUMAN OCCUPANCY AND DANGEROUS STRUCTURES

303.1 General. When a structure is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, such structure

shall be *condemned* pursuant to the provisions of this code.

303.1.1 Unsafe structures. 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 because the structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

303.1.2 Structure unfit for human occupancy. A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks permitted sanitary facilities, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

303.1.3 Dangerous structure. For the purpose of this code, any structure that has any or all of the conditions or defects described below shall be considered dangerous:

1. The outdoor stairway, exit or other means of egress is so warped, deteriorated, or otherwise unsafe as to not provide safe and adequate means of egress.
2. Any portion of a structure that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
3. The structure, or part of the structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse or some portion of the foundation or underpinning of the structure is likely to fail or give way.
4. The structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive or public nuisance.
5. A structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, or

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inadequate sanitary system, is determined by the *code official* to be unsanitary or unfit for human habitation.

6. Any portion of a structure remains on a site after the demolition or destruction of the structure or whenever any structure is abandoned so as to constitute such structure or portion thereof as an attractive or public nuisance.

303.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive or public nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *code official* shall pursue the remedies provided by this code.

303.3 Notice. Whenever the *code official* has *condemned* a structure under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the structure in accordance with Section 107.3. The notice shall be in the form prescribed in Section 107.2.

303.4 Placarding. Upon failure of the *owner*, person, business, corporation or other organization responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises* or removing the placard.

303.4.1 Placard removal. The *code official* shall remove the *condemnation* placard whenever the defect or defects upon which the *condemnation* and placarding action were based have been eliminated. Any person who defaces or removes a *condemnation* placard without the approval of the *code official* shall be subject to the penalties provided by this code.

303.5 Prohibited occupancy. Any occupied structure *condemned* and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who occupies a placarded structure and any *owner*, person, business, corporation or other organization responsible for the structure who shall let anyone occupy a placarded

structure shall be liable for the penalties provided by this code.

303.6 Abatement methods. The *owner* of a structure deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. Exterior of a structure shall be maintained in good repair, structurally sound and sanitary as so not to pose a threat to the public health, safety or welfare.

304.2 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.