

AN ORDINANCE CREATING PARKVILLE MUNICIPAL CODE CHAPTER 240 TITLED DANGEROUS BUILDINGS AND STRUCTURES

WHEREAS, the Parkville Property Maintenance Code (PPMC) was adopted by Ordinance No. 2464 on January 20, 2009, and subsequently revised by Ordinance Nos. 2837 and 2907; and

WHEREAS, the City's Code Enforcement Officer is responsible for enforcing the PPMC provisions; and

WHEREAS, in October 2018 a fire substantially damaged property at 202 East Street in downtown Parkville and since this time our Code Enforcement Officer has issued violations to Section 108 – Unsafe Structures and Equipment of the PPMC to the property owner of 202 East Street; and

WHEREAS, no action was taken by the owner of 202 East Street regarding the timeline for debris and cleanup of the structure and residents of Ward 1 are concerned with the condition of the remaining structure; and

WHEREAS, RSMo Chapter 67 provides for duties of the building commissioner or designated officer(s) to hold hearings regarding buildings or structures whose conditions are detrimental to the health, safety or welfare of the community and may constitute a nuisance; and

WHEREAS, the City's legal counsel recommends adding provisions to the Parkville Municipal Code as a new chapter under Public Health, Safety and Welfare in order to be in compliance with Missouri Revised Statutes (RSMo) Chapter 67.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PARKVILLE, MISSOURI, AS FOLLOWS:

Section 1. The Parkville Municipal Code is hereby amended to create Chapter 240 Dangerous Buildings and Structures as a new chapter under Public Health, Safety and Welfare to read as follows:

Chapter 240. Dangerous Buildings and Structures

Section 240.010. Purpose and Section.

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings and/or over structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such structures and/or buildings or the general public, and this Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Parkville, Missouri. All parts of this Chapter shall be read in harmony with all other existing ordinances so as to give effect to both, where possible, such that this Chapter provides additional conditions rather than replacing existing requirements.

Section 240.020. Dangerous Buildings Defined.

- A. All buildings that are detrimental to the health, safety or welfare of the residents of the City and that have any or all of the following defects shall be deemed "dangerous buildings":
1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
 2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members, or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
 3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
 4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the City.
 5. Those that are so dilapidated, decayed, unsafe, unsanitary, or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
 6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
 7. Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
 8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
 9. Those that because of their general overall condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City.
 10. For purposes of this Chapter, the requirements of the BOCA Code, as from time-to-time amended, and the Uniform Housing Code, as from time-to-time amended; and the National Fire Code, as from time-to-time amended, and all other Codes adopted for use by the City of Parkville, and all other ordinances of the City of Parkville together with State and/or Federal requirements shall be deemed to be competent evidence of compliance or non-compliance with the provisions of this Chapter.

Section 240.030. Dangerous Buildings Declared Nuisance.

All dangerous buildings, as defined by Section 240.020, are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein.

Section 240.040. Standards for Repair, Vacation or Demolition.

- A. The following standards shall be followed in substance by the Building Inspector and/or the Building Commissioner in ordering repair, vacation or demolition of any dangerous building:
1. If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
 2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
 3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered demolished.
 4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this City or Statute of the State of Missouri, it shall be ordered repaired or demolished.
 5. The owner, occupant, lessee, mortgagee, agent and all other persons having an interest in a dangerous building shall be required to secure said building from entrance, intrusion or occupancy by any members of the general public within seventy-two (72) hours after notice is received by the Building Inspector.
 6. Any person including owner, occupant, lessee, mortgagee, agent of the proceeding or any other persons having an interest in keeping a building contained and described in this Chapter as a dangerous building, shall be guilty of a misdemeanor.

Section 240.050. Building Inspector.

The Community Development Director or Building Official, Building Inspector, Code Enforcement Officer, the Fire Chief and the Police Chief shall be all deemed to be Building Inspectors within the meaning of this Chapter.

Section 240.060. Duties of the Building Inspector — Procedure and Notice.

- A. The Building Inspector shall have the duty under this Chapter to:
1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.
 2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Building Inspector determines that there are reasonable grounds to believe that such building is dangerous.
 3. Inspect any building, wall or structure reported by the Fire or Police Departments of this City as probably existing in violation of this Chapter.

4. Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Platte County of any building found by him/her to be a dangerous building within the standards set forth in Section 240.020. All such costs of notification shall be chargeable to the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building. Proration of such costs shall be done between such persons and shall not be the responsibility of the City of Parkville, which may collect all such costs incurred by it jointly or severally among them. The notice required shall state that:
 - a. The owner must vacate, vacate and 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 notice and this Chapter;
 - b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession; and
 - c. The mortgagee, agent or other person having an interest in said building as shown by the land records of the Recorder of Deeds of Platte County wherein the land is located may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done, provided that any person notified under this Subsection to repair, vacate or demolish any building, or clean up the property shall be given such reasonable time not exceeding thirty (30) days to commence the required work.
5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building, and an order requiring the designated work to be commenced within the time provided for in the above Subsection.
6. Report in writing to the Building Commissioner the non-compliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.
7. Appear at all hearings conducted by the Building Commissioner and testify as to the condition of dangerous buildings.
8. Immediately report to the Building Commissioner concerning any building found by him/her to be inherently dangerous and that they determined to be a nuisance. The Building Commissioner may direct that such building be marked or posted with a written notice reading substantially as follows:

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

Provided however, that the order by the Building Commissioner and the posting of said notice shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein.

Section 240.070. Building Commissioner.

The City Administrator, or upon the City Administrator's written designation such other individual so designated by the City Administrator, shall act as Building Commissioner under this Chapter.

A. The Building Commissioner shall have the power pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter and cause the Building Inspector to make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint or report from any source that a dangerous building exists in the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report be made by any other City department or retain services of an expert whenever the Building Commissioner deems such service necessary.
2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, the Building Commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks in a newspaper qualified to publish legal notices, at least ten (10) days in advance of a 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 Recorder of Deeds of Platte County wherein the land is located, to appear before the Building Commissioner on the date specified in the 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 Inspector's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

3. 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 240.020.
4. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Building Commissioner shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) have an interest in said

building as shown by the land records of the County wherein the land is located 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 Platte County wherein the land is located may vacate and demolish said dangerous building at his/her 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, no order shall be issued.

5. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Building Commissioner may cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant; and the Building Commissioner shall certify the cost of the work borne by the City for such repair, vacation, demolition, and/or cleanup, and all other expenses of the City in connection therewith, including, but not limited to: cost of preparing and providing notices; costs of the City's legal representation; title search fees; and all other similar or related expenses to the City Clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s) 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. The contractor may enforce this lien as provided in Sections 429.010 to 429.360, RSMo. Except as provided in Subsection (6) of this Section, at the requested period of not more than ten (10) years, said assessment shall bear at the lawful rate of interest authorized to be collected by municipalities by State Statute until fully paid.
6. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the Building Commissioner as provided in Subsection (5) of this Section, and a special tax bill or assessment is issued against the property, proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the repayment of up to twenty-five percent (25%) of the insurance proceeds, as set forth in subdivisions (a) and (b) of this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
 - a. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment and shall pay such monies to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the Chapter.
 - b. The City shall release the proceeds and any interest that has accrued on such proceeds received under subdivision (a) of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after the receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of Subsection (5) of this Section. If the City has proceeded under the provisions of Subsection (5) of this Section, all monies in

excess of that necessary to comply with the provisions of Subsection (5) of this Section for the removal, securing, repair and cleanup of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

7. If there are no proceeds of any insurance policy as set forth in Subsection (6) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid. The same shall bear interest at the lawful rate as provided by law as to each such installment as the same comes due.
8. Subsection (6) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
9. Subsection (6) of this Section does not make the City a party to any insurance contract, and insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
10. The Building Commissioner may certify in lieu of payment of all or part of the covered claim under Subsection (6) that is 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 Building Commissioner 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 (6) 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 certification provided from this Subsection.

Section 240.080. 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 Recorder of Deeds of Platte County wherein the land is located may, within thirty (30) days from the receipt of the order of the Building Commissioner, appeal such decision to the Circuit Court of Platte County pursuant to the procedure established in Chapter 536, RSMo. All administrative remedies must be exhausted prior to and as a condition of such appeal to the Circuit Court.

Section 240.090. Emergencies.

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner may cause the immediate vacation and/or demolition of such dangerous building and cleanup of the property. The costs of such emergency repair, vacation and/or demolition of such dangerous building shall be collected in the same manner as provided in Section 240.060(4). In no event shall the City be responsible or under any obligation to undertake repair of any building or structure.

Section 240.100. Violations — Disregarding Notices or Orders.

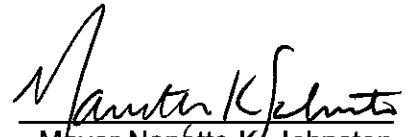
- A. The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Building Commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 240.120.
- B. Any person removing any notices provided for in this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 240.120.

Section 240.110. Penalties.

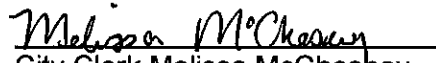
- A. Any person who knowingly violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00), or by confinement in the County Jail for not more than three (3) months, or both such fine and confinement. Each day of violation shall be deemed to be a separate offense.
- B. No person shall be entitled to receive a probation or a suspended imposition of sentence unless, as a condition thereof, such person shall be required to remove the nuisance as an express condition of probation.
- C. Removal of a posted order by any person other than an authorized City Official which has been posted upon any business premises shall be a misdemeanor punishable by a fine of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) and for which no probation or suspended imposition of sentence is authorized.
- D. Conviction of a second (2nd) offense of removing a posted order within ten (10) years of a previous offense shall be a misdemeanor for which the range of punishment shall be a fine of not more than five hundred dollars (\$500.00), the amount of such fine being determined by the court as is the case of proving prior and persistent offender status under the Statutes of the State of Missouri which said statutory procedures are incorporated by reference herein as they currently exist, and as they may hereafter be altered, amended or modified by the State Statutes relating thereto. No suspended imposition of sentence or probation shall be authorized for conviction of removal of a posted order either as a first (1st) offense or as a prior offender.
- E. Proof of ownership or occupation of the premises, the posting of notice, and the mailing of copies of the order shall constitute prima facie evidence that the absence of any posted order was due to the express or authorized action of the person or persons to who or whom such order was addressed.

Section 2. This ordinance is effective upon its passage and approval.

PASSED and APPROVED this 7th day of May 2019.


Mayor Nanette K. Johnston

ATTESTED:


City Clerk Melissa McCheshey

