

PROCEDURES AND BEST PRACTICES WHEN TARGETING A PROPERTY FOR DEMOLITION UNDER COMMUNITY PROPERTY MAINTENANCE CODE

1. The Code Official should issue an appropriate notice of the violation(s) to the property owner(s) and occupant(s) that complies with COMMUNITY CODE. If the property is unsafe, unfit for human occupancy, or unlawful, as defined in COMMUNITY CODE, a Notice of Condemnation should accompany the Notice of Violations. Further, if an emergency exists on the premises that poses an immediate threat to the health, safety and welfare of the public and/or occupants in the structure, an Emergency Order can also be incorporated into the notice.¹ A sample "Legal Notice of Condemnation, Emergency Order, and Property Maintenance Violations" is attached hereto for reference.
 - a. Pursuant to COMMUNITY CODE any notice of violations of the Community Property Maintenance Code must:
 1. Be in writing;
 - i. Include a description of the real estate sufficient to adequately identify the property;²
 - ii. Include a statement of the reason(s) why the notice has been issued, including a listing of the specific ordinances that have been violated;
 - iv. Include a Correction Order which allows reasonable time for the repairs or improvements to be completed in order to bring the property into compliance with the Code; and
 - v. Include an explanation of the owner's right to appeal the determination by filing a petition for appeal with the Property Maintenance Appeals Board within fifteen days in accordance with COMMUNITY CODE.
 - b. COMMUNITY CODE requires that the notice described above be served on the owner or occupant by certified mail, return receipt requested; personal delivery; or the posting of the notice in a prominent place on the property where the violations exist.³

¹ An Emergency Order entered pursuant to TCO §1341.15 permits the City to have the property vacated immediately whereas a Notice of Condemnation without an Emergency Order requires that the property owners/tenants be given thirty days to vacate the structure. Non-emergency violations can also be addressed in the Emergency Order.

² It is recommended that the property address and parcel id no.(s) be included in the Notice of Violations. Further, it is prudent to check the County Auditor and Recorder's Office records to confirm the parcel id no.(s) and owner(s).

³ It is recommended that the Notice of Violations be served on all property owners and occupants by all three methods of service, if possible. Further, reasonable steps should be taken to locate the property owners in the event they are not living in the property.

2. If persons affected by the Notice of Violations, Notice of Condemnation and/or Emergency Order do not timely request an appeal or comply with the Corrective Order contained in the Notice submitted by the Code Official, then the City can proceed with issuing a Demolition Order in accordance with COMMUNITY CODE.⁴
3. A Demolition Order may be issued by the Code Official if the property is "old, dilapidated, or has become so out of repair so as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation..."⁵ The Demolition Order can direct the property owner to, at owner's option, repair the property, if the property can be made safe and sanitary, or to raze and remove it. If the Code Official determines the cost of repairs would exceed 100% of the current value of the property, the repairs are presumed unreasonable and the Code Official can order that the property be razed without giving the owner the option to repair the property.⁶
 - a. The Demolition Order should:
 1. Be in writing;
 - 1i. Include a description of the real estate sufficient to adequately identify the property;
 - 1ii. Include a statement of the reason(s) why the Demolition Order has been issued, including a listing of the specific ordinances that have been violated;
 - 1iv. Include an appraisal of the property;⁷
 - 1v. Specify the time in which the owner must comply and specify repairs to be made, if repairs are an option;
 - 1vi. Be served on all owners of record (and his agent where an agent is in charge of a building) and upon the holder of any encumbrance of record in the same manner as service of a summons would be by a court. If the owner (or other interested parties) cannot be found, the order can be served by posting it on the main entrance of the building or by publishing

⁴ Pursuant to TCO §1341.17(c), a Demolition Order must be served on the owner(s) of record and upon the holder of any encumbrance of record in the manner provided for service of a summons by a court. Accordingly, a Title Commitment should be obtained to identify all interested parties before the Demolition Order can be issued.

⁵ The best practice is to issue a Notice of Violation, Notice of Condemnation and/or Emergency Order before proceeding with a Demolition Order. However, when necessary, the Demolition Order can be the initial Notice/Order sent concerning the property.

⁶ The City should have an appraisal to confirm the current valuation of the property before denying the owner the opportunity to repair the property instead of razing it.

⁷ Pursuant to TCO §1341.17(b), if the cost of the repairs of the property exceeds 100% of the current value of the property, the repairs are presumed unreasonable. In that event, the Code Official can order the property razed without giving the property owner the option to repair it.

once a week for three consecutive weeks in a newspaper of general circulation;⁸ and

v11. Include an explanation of the owner's (and other interested parties) right to appeal the order by filing a petition for appeal with the Property Maintenance Appeals Board within fifteen days in accordance with COMMUNITY CODE.⁹

- b. If the property owner fails to timely comply with the Demolition Order, and if the property owner and/or other interested parties do not file an appeal, the Code Official can cause the structure or any part thereof to be razed and removed, either through an available public agency or by contract or agreement with private persons, with the associated costs of the demolition being charged against the real estate upon which the structure is situated.¹⁰

EXAMPLE

⁸ In the event any owner or interested party cannot be located, the best practice would be to provide notice by both publication and posting on the property.

⁹ COMMUNITY CODE ordinance authorizing demolition, specifically refers to the right of any person affected by the Demolition Order to seek a restraining order from a court of record within ten days of receiving the Demolition Order (as opposed to giving them the opportunity to file an appeal to the Property Maintenance Appeals Board). However, the City's current practice is to provide the aggrieved party(ies) another opportunity to appeal to the Property Maintenance Appeals Board.

¹⁰ Pursuant to R.C. §715.26, the property owner(s) and all holders of liens of record must be given at least thirty days' notice prior to demolition.

LEGAL NOTICE OF CONDEMNATION, EMERGENCY ORDER, AND PROPERTY MAINTENANCE VIOLATIONS

DATE

SENT VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OWNER(S) NAME(S)
OWNER(S) ADDRESS LINE 1
OWNER(S) ADDRESS LINE 2

OCCUPANT(S) NAME(S)
and all other occupants, tenants, and other interested persons
PROPERTY ADDRESS LINE 1
PROPERTY ADDRESS LINE 2

Re: Property located at _____
Parcel ID Nos.

Mr./Mrs. _____, and all other occupants, tenants, and other interested persons:

A recent inspection of the property located at _____ (hereinafter the "Property") revealed a number of violations of the COMMUNITY Property Maintenance Code. A complete list of the violations that exist at or about the Property are fully set forth in the document attached hereto as Exhibit A.

As a Code Official for the COMMUNITY, and based on the violations described in Exhibit A attached hereto and incorporated herein, I have determined that the Property is unsafe, unfit for human occupancy, and unlawful. Accordingly, **THE PROPERTY IDENTIFIED ABOVE IS HEREBY CONDEMNED** pursuant to Section 1341.12(a) of the COMMUNITY Property Maintenance Code, which section provides as follows:

*(a) **General.** When a structure or part thereof is found by the Code Official to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, or is found unlawful, it may be condemned pursuant to the provisions of this Code and may be placarded. Such a structure or part thereof shall be vacated within thirty days after notice such condemnation has been given, and shall not be reoccupied without the approval of the Code Official. In addition, unsafe equipment shall be placarded and placed out of service.*

(1) *An unsafe structure is one in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that it is likely to partially or completely collapse.*

(2) *Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises or structures. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.*

(3) *A structure is unfit for human occupancy or use whenever the Code Official finds that it is unsafe, unlawful or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rodent infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this Code, or, because its location constitutes a hazard to its occupants or to the public.*

(4) *An unlawful structure is one found in whole or in part to be erected, altered or occupied contrary to law.*

CORRECTIVE ORDER AND SPECIFIC ACTION REQUIRED

Specific and immediate action must be taken in order to cure the existing violations of the COMMUNITY Property Maintenance Code. The specific action required and the timetable for completion is fully set forth in the document attached hereto as Exhibit A.

You are also specifically instructed that a failure to have the gas, water, and electric turned on at the Property **within three (3) business days** of the date of this notice will result in the issuance of an Emergency Order pursuant to Section 1341.15(a) of the COMMUNITY Property Maintenance Code, which section provides as follows:

(a) *General. Whenever a Code Official finds that an emergency exists on any premises, or in any structure or part thereof, or on any defective equipment which requires immediate action to protect the public's health and safety or that of the occupants thereof, he may, with proper notice and service in accord with the provisions of Section 1341.13, issue an order reciting the existence of such an emergency **and requiring the vacating of the premises** or such action taken as he deems necessary to meet such emergency.*

Notwithstanding other provisions of this Code, such order shall be effective immediately, and the premises or equipment involved shall be placarded immediately upon service of the order. (emphasis supplied)

A failure to maintain utilities such as water, gas, and electric is significant, and it makes the Property unsafe, unsanitary, and unfit for human occupancy. As such, and as set forth above, an Emergency Order will be entered by the Code Official, which order will result in the immediately removal of you from the Property, if you fail to timely comply with this specific corrective order.

NOTICE OF RIGHT TO APPEAL

In accordance with Section 1341.16(a) of the COMMUNITY Property Maintenance Code, you are hereby notified of your right to an appeal of the Code Official's determination and findings as set forth herein within **fifteen (15) days**. Section 1341.16(a) of the COMMUNITY Property Maintenance Code provides as follows:

(a) Petition. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Code, or any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Property Maintenance Appeals Board provided that such person shall file in the City Offices a written petition requesting such hearing and containing a statement of the grounds therefor within fifteen days after the day the notice was served.

If you believe this Notice has been sent to you in error, or if you have any questions, ENTER CONTACT.

Sincerely,

CONTACT
POSITION TITLE
COMMUNITY

FOR OFFICIAL USE ONLY

A copy of this Legal Notice was also served upon the owner and/or occupant(s) by:	Personal Delivery: <input type="checkbox"/> Yes <input type="checkbox"/> No	Posting Notice on Property: <input type="checkbox"/> Yes <input type="checkbox"/> No
	On: _____ (DD/MM/YYYY)	On: _____ (DD/MM/YYYY)

EXHIBIT A

<p style="text-align: center;">VIOLATION AND APPLICABLE PROPERTY MAINTENANCE CODE SECTION</p>	<p style="text-align: center;">SPECIFIC CORRECTIVE ACTION REQUIRED</p>	<p style="text-align: center;">DATE BY WHICH CORRECTIVE ACTION MUST BE COMPLETED</p>
<p>PMC §1345.04(a) Sanitation: All exterior property areas and premises shall be maintained in a clean, safe, and sanitary condition free from any accumulation of rubbish or garbage.</p>	<p>[The Code Official inserts corrective action required]</p>	<p>[The Code Official inserts the date or timeframe in which corrective measure much be completed]</p>
<p>PMC §1345.04(f) Weeds and Grass. All areas shall be kept free from weeds or plant growth which are noxious or detrimental to the public health and welfare. Weeds and grass shall not be permitted to exceed a height of eight inches.</p>	<p>[The Code Official inserts corrective action required]</p>	<p>[The Code Official inserts the date or timeframe in which corrective measure much be completed]</p>
<p>PMC §1345.04(n) Miscellaneous Items. It shall be unlawful for the owner or occupant of any building, structure or property to utilize the premises of such property for the open storage of any abandoned appliances, dismantled vehicles and/or miscellaneous items which pose a threat to personal safety.</p>	<p>[The Code Official inserts corrective action required]</p>	<p>[The Code Official insertis the date or timeframe in which corrective measure much be completed]</p>
<p>PMC §1349.03(a) Dwelling Units. Every dwelling unit shall include plumbing facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste. The following minimum plumbing facilities, as set forth in this section, shall be supplied and maintained in sanitary, safe, working condition.</p>	<p>[The Code Official inserts corrective action required]</p>	<p>[The Code Official inserts the date or timeframe in which corrective measure much be completed]</p>