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ORDINANCE NO. 18210

AN ORDINANCE introduced by Councilmembers Gary Price, Jeff Preisner, and Lisa Stubbs, creating the property maintenance chapter and repealing City of Topeka Code Chapter 26, Article XI, Unsafe structures, including §§ 26-546 through 26-558 inclusive, Chapter 66, Article II, Nuisances, including §§ 66-25 through 66-36 inclusive, Chapter 66, Article III, Junked and abandoned vehicles, including §§ 66-56 through 66-62 inclusive, Article X, Weed Abatement, including §§ 78-381 through 78-386 inclusive, and Chapter 82, Article II, Housing Code, including §§ 82-31 through 82-270 inclusive and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code is hereby amended by the addition of the following chapter:

PROPERTY MAINTENANCE

ARTICLE I. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Section 2. Title.

These regulations shall be known as the Property Maintenance Code of the City of Topeka.

Section 3. Scope.

The provisions of this chapter shall apply to all structures and premises within the city and constitute minimum standards for the same.

Section 4. Findings, purpose and intent.

1. This chapter shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare.
2. The Council of the City of Topeka finds that certain conditions as hereinafter defined cause annoyance, inconvenience or damage to the public with respect to the public's comfort, health, safety, welfare and enjoyment of property. Pursuant to the authority found in K.S.A. 12-1617e, K.S.A. 12-1617f, and K.S.A. 12-1617g, it is the purpose and intent of the city council to define and proscribe those conditions which are injurious to the public and which constitute a public nuisance. It is further the purpose and intent of the council, pursuant to K.S.A. 12-1617e and K.S.A. 12-1617g to set forth and delegate responsibility to the public works director for procedures regarding notice, abatement and prosecution of those individuals who allow property maintenance violations to exist.

3. It is hereby further declared that the purpose of this chapter is to protect, preserve and promote the physical and mental health and social well-being of the people of the city to prevent and control incidents of communicable diseases, to regulate privately and publicly owned structures for the purpose of maintaining adequate sanitation and public health, to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all structures now in existence or hereafter constructed.

4. It is hereby further declared that the purpose of this chapter is to ensure that the quality of the interior of residential structures is adequate for the protection of public health, safety and general welfare, including establishment of minimum standards for basic equipment and facilities for light, ventilation and thermal conditions for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance, including a determination of the
responsibilities of owners, operators and occupants of residential structures; and
provision for the administration and enforcement thereof.

Section 5. Severability.

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

Section 6. Definitions

The following words, terms and phrases, when used in this chapter, shall have
the meanings ascribed to them in this section, except where the context clearly
indicates a different meaning:

Meaning of certain words. Whenever the words "dwelling," "dwelling unit,"
"rooming house," "rooming units," "premises" or "structures" are used in this chapter,
they shall be construed as though they were followed by the words "or any part thereof."

Accessory structure means a detached structure which is not used or not
intended to be used for living or sleeping by human occupants and which is located on
or partially on any premises.

Agent means any person who has charge, care, control or management of a
structure or premises which is let or offered for occupancy.

Appropriate authority means the department, division or person who has the
responsibility to administer and enforce the applicable code.

Approved means approved by the local or state authority having such
administrative authority.

Basement means the lower level of a building located substantially below grade.
Calendar year as used herein means that period of time beginning January 1 and ending December 31 of the same year.

Cellar means a portion of a building located partially or wholly underground, and having half or more than half of its clear floor to ceiling height below the average grade of the adjoining ground.

Chimney means a vertical masonry shaft of reinforced concrete or other approved noncombustible, heat resistant material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

Commercial structure means any structure or any part thereof, which is used for other than residential purposes and where applicable, the premises on which such structures are situated.

Dwelling means any enclosed space that is wholly or partly used or intended to be used for living or sleeping by human occupants; provided, that temporary housing as defined in this section shall not be regarded as a dwelling.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, sanitation and eating.

Egress means a place or means of going out.

Extermination means the control and elimination of insects, rodents and/or rats by eliminating their harborage places; by removing or making inaccessible materials that may serve as a food source; by poisoning, spraying, fumigating, trapping or by any other approved pest elimination methods.
Flush toilet (Water Closet) - A water-flushed plumbing fixture designed to receive
human waste. This fixture shall have a means of delivering a minimum of one point six
(1.6) gallons of water after each use, to thoroughly clean and sanitize the fixture.

Garbage means the animal or vegetable waste resulting from the handling,
preparation, cooking and consumption of food.

Graffiti means any unauthorized writing, inscription, word, figure or design which
is marked, etched, scratched, drawn or painted on any structural component of any
building, structure or other facility, regardless of the nature of the material used in its
application or upon which it is applied.

Guest means any person who shares a dwelling unit in a nonpermanent status
for not more than thirty (30) days.

Habitable space means space in a structure for living, sleeping, eating or
cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar
areas not considered habitable spaces.

Heated water means water capable of being heated to a temperature of not less
than one hundred twenty degrees (120°F) Fahrenheit at the outlet.

Household means a family and/or one or more unrelated persons, including
servants, who share the same dwelling and use some or all of its cooking and eating
facilities.

Imminent danger means a condition that could cause serious or life-threatening
injury or death at any time.

Infestation means the presence within or around a dwelling of any insects,
rodents or rats.
*Ingress* means a place or means of going in.

*Inoperative vehicle* means any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a public street or highway due to removal of, damage to, or deterioration of, or inoperative condition or absence of any component part, or the lack of an engine, transmission, wheels, tires, doors, or windshield or windows necessary for such lawful operation.

*Inspector* means the designated staff member in the public works department.

*Kitchen* means any room containing any or all of the following equipment, or any area of a room within three (3) feet of such equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator for cool storage of food (between thirty-two degrees (32°) and forty-five degrees (45°) Fahrenheit), cabinets and/or shelves for storage of equipment and utensils, and table or counter for food preparation.

*Kitchenette* means a small kitchen or an alcove containing cooking facilities.

*Motor vehicle* means a machine propelled by power other than human power and designed to travel along the ground by use of wheels, treads, runners or slides and which transports persons or property or pulls machinery, and shall include without limitation an automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

*Multiple dwelling* means any dwelling containing more than two dwelling units or rooming units.

*Nonresidential structures* means any structure or any part thereof, which is used for other than residential purposes, and where applicable, the premises on which such structures are situated.
Notice means a written issued by the public works director declaring a condition to be substandard.

Nuisance means any condition which injures or endangers the comfort, repose, health, safety or welfare of the public; offends decency; is offensive to the senses; unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; in any way renders another person insecure in life or the use of property; or essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of another.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Occupant means any person over one (1) year of age, living, sleeping, cooking or eating in, or actually having possession of, a dwelling unit or a rooming unit, except that in dwelling units a guest will not be considered an occupant.

Owner means any person who, alone or jointly or severally with others, shall have:

1. Legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof; or

2. Charge, care or control of any premises, dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, purchaser under contract, taxpayer, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the
provisions of any notice and order and of rules and regulations adopted pursuant thereto, to the same extent as if the person were the owner.

*Permissible occupancy* means the maximum number of persons permitted to reside in a dwelling unit or rooming unit.

*Plumbing* means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer or gas lines.

*Premises* means a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such dwelling, accessory structure or other structure thereon.

*Privacy* means the existence of conditions which will permit a person to carry out an activity commenced without interruption or interference, either by sight or sound, by unwanted persons.

*PUC* means a purchaser of real estate under an installment land contract.

*Rat harborage* means any place where rats or rodents can live, nest or seek shelter.

*Rat proofing* means construction, which will prevent the ingress or egress of rats or rodents to or from a given space in a building, or prevent access to food, water or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs,
sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rats or rodents through by climbing, burrowing or other methods, by the use of materials impervious to rat or rodent gnawing, and other methods approved by the appropriate authority.

*Refuse* includes garbage and trash, but is not limited to waste matter from the preparation of food, yard trimmings, paper, boxes, wood, glass, crockery and metals.

*Refuse container* means a container that is impermeable by water or air and that is capable of being serviced without creating unsanitary conditions. Openings into the container such as covers and doors shall be tight-fitting.

*Residential board and care facility* means a facility as defined by Topeka City Code § 70-191.

*Residential structures* means any building, dwelling or structure, or part thereof, used and occupied or intended to be used and occupied for human habitation, and including any appurtenances belonging thereto or usually enjoyed therewith.

*Rooming house* means any dwelling or that part of any dwelling containing one (1) or more rooming units.

*Rooming unit* means any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking purposes.

*Safety* means the condition of being free from danger and hazards which may cause accidents or disease.

*Space heater* means a self-contained heating appliance of either the circulating type or the radiant type and intended primarily to heat only one (1) room.
Structures means anything constructed or erected which requires location on the ground or attached to something having a location on the ground including retaining walls.

Supplied means paid for, furnished by, provided by, or under the control of the owner, occupant, PUC, or agent.

Temporary housing means any tent, trailer, mobile home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system on the same premises for more than thirty (30) consecutive days.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Trash means solid wastes, excluding ashes, consisting of either:

1. Combustible wastes such as paper, cardboard, plastic containers, yard clippings and wood; or

2. Noncombustible wastes such as tin cans, glass and crockery.

Unsafe Structure means one that is unfit for human use or habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light, sanitary facilities or other conditions which render such structures unsafe, unsanitary, or otherwise injurious to the welfare of the residents of the city.

Vegetation means, but is not limited to, weeds, woody vines, brush, grass and uncultivated plants.

Weeds means the existence of excessive accumulations or untended growth of weeds, grasses, undergrowth and uncultivated plants which threatens or endangers the
public health, safety or welfare or may reasonably cause disease, harbor vermin and insects, or which adversely affects and impairs the economic welfare of the adjacent property is hereby prohibited.

DIVISION 2. DUTIES AND POWERS OF THE PUBLIC WORKS DIRECTOR

Section 7. Authority to enforce.

The public works director and/or his or her designee, hereinafter referred to as the public works director, shall be charged with the administration and enforcement of this chapter.

Section 8. Authorization to enter premises.

To the extent authorized by law, the public works director may enter on such premises at reasonable times to make inspections and to determine whether a violation exists. If upon investigation the public works director determines that a violation exists, proper notice as provided in this chapter shall be given to the owner and occupant, if applicable, of the premises on which the violation is located. The Public Works Director shall proceed to cause the violation to be corrected, abated or suppressed.

Section 9. Emergency measures - Notices of less than five (5) days.

Whenever in the judgment of the public works director and/or fire chief or designee an emergency exists which poses an immediate hazard requiring immediate action to protect public health, safety or welfare, an order may be issued, without written notice, or hearing, directing the owner, occupant, PUC or agent to take such action as is appropriate to correct or abate the emergency. The public works director shall attempt to contact the owner, occupant, PUC or agent and seek their immediate action to abate
the emergency. If such attempt is unsuccessful, the public works director, may act to
correct or abate the emergency.

Section 10. Conference to discuss complaint.

The owner, occupant, PUC or taxpayer/agent shall be granted a conference on
the matter upon request, as soon as practicable, but such conference shall in no case
stay the abatement or correction of a violation.

DIVISION 3. NOTICES, CONTENTS, MANNER OF SERVICE.

Section 11. Nuisance violation contents, manner of service.

Notice of a nuisance violation of the provisions contained in Article II of this
chapter shall comply with all the notice and service requirements contained in K.S.A.
12-1617e, and any amendments thereto.

Section 12. Nuisance violation, weeds/grasses contents, manner of
service.

1. Notice of a nuisance violation of the provisions contained in Article II of
this chapter specifically relating to weeds and/or grasses shall comply with all notice
and service requirements contained in K.S.A. 12-1617f, and any amendments thereto.

2. As authorized by K.S.A. 12-1617f, the public works director is specifically
authorized to provide a minimum one (1) time yearly written notice by mail or personal
service to the owner, occupant, PUC or agent which will permit subsequent abatement
mowings without any additional notice. The notice provided under this section shall also
include a statement that no further notice shall be given prior to the cutting or removal of
weeds.
Section 13. Nuisance violations, inoperative vehicles, contents, and manner of service.

Notice of a nuisance violation of the provisions contained in Article II of this chapter, specifically relating to inoperative vehicles shall comply with all the notice and service requirements contained in K.S.A. 12-1617e, and K.S.A. 8-1102, and all amendments thereto.

Section 14. Property maintenance violations, contents and manner of service.

Notice of a violation of the provisions contained in Article III Property Maintenance Standards of this chapter, specifically relating to property maintenance violations shall contain the following:

1. Content of Notice.

   A. The street address and a legal description sufficient for identification of the premises upon which the structure is located.

   B. A statement that the public works director has found the structure to be substandard with a brief and concise description of the conditions found to render the building in violation of the property maintenance code.

   C. A statement of the corrective action required to be taken as determined by the public works director and reasonable time not to exceed sixty (60) days from the date of service or publication for corrective action to be completed. One (1) extension of time not to exceed sixty (60) days to complete corrective action may be granted by the administrative hearing officer or the public works director upon request of the owner of record if dictated by adverse
weather conditions or other exigent circumstances. In the event corrective action requires exterior repairs which are weather sensitive such as but not limited to roofing, painting, foundation work, then additional extension(s) of time may be granted by the administrative hearing officer or public works director.

D. Statement advising that if any required repair work (not including vacation of the building or structure) is not completed within the time specified, the public works director may order the structure vacated and posted to prevent further occupancy until the work is completed. If the public works director determines that the building or structure must be vacated, the notice and order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the public works director to be reasonable. A statement that if the property maintenance code violation is not corrected within the time stated in the notice an administrative monetary penalty shall be imposed.

E. Statement advising that the owner may elect to demolish the building or structure after securing all necessary permits instead of performing the repair work. If the building or structure is demolished by the owner, the notice shall be canceled.

F. Statements advising (a) that any person having any record, title or legal interest in the building may appeal from the notice or any action of the public works director to the administrative hearing officer. The appeal request made shall be to the public works director within ten (10) calendar days from the date of service of such notice and order, and (b) that failure to appeal will
constitute a waiver of all right to an administrative hearing and determination of
the matter.

G. Statement advising that failure to comply with the notice or failure to
appeal or seek a variance from the same, may result in prosecution in Municipal
Court.

H. Information on the availability of housing programs that assist
owners in the rehabilitation of property.

3. Service of notice. The notice and any amended or supplement notice shall
be served upon the owner of record, and one (1) copy thereof shall be served on each
of the following if known or disclosed from official public records; i) the holder of any
mortgage or deed of trust or other lien or encumbrance of record; ii) the holder of any
other estate or legal interest of record in or to the building or the land on which it is
located. The failure of the public works director to serve any person required herein to
be served shall not invalidate any proceedings hereunder as to any other person duly
served or relieve any such person from any duty or obligation imposed by the provisions
of this section.

4. Method of service. Service of the notice shall be made upon all persons
entitled either personally or by mailing a copy of such notice by certified mail, postage
prepaid, return receipt requested, to each such person at their address as it appears on
the register of deeds, Shawnee County records. If the location of such person is
unknown or if no address of such person so appears after diligent effort, then a copy of
the notice shall be posted, at the address of the building involved in the proceedings,
and such notice shall be published once in the official city paper. The failure of any such
person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of receipt.

5. Proof of service. Proof of service of the notice shall be certified at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice retained by the public works director.

Section 15. Notices applicable to future owners.

Every effort will be made to provide notification of violation notices to the county for structures pending auction or simply for sale. Any notice and order not corrected will be recorded with the Office of the Register of Deeds, Shawnee County.

DIVISION 4. PLACARDING AND ORDER TO VACATE.

Section 16. Placarding and order to vacate.

1. After notice and hearing as provided by this section, the administrative hearing officer shall issue an administrative placard order which shall be served in accordance with the applicable state statute. If the administrative hearing officer determines that a dwelling, dwelling unit or rooming unit is unfit for human habitation, the public works director shall placard the dwelling, dwelling unit or rooming unit, indicating that it is unfit for human habitation, and, if occupied, shall order the dwelling, dwelling unit or rooming unit vacated within a reasonable time, such time to be not less than three (3) days nor more than thirty (30) days.
2. Every administrative placard order shall in addition to being served as provided for shall also be posted conspicuously upon a structure and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this structure
per § __________, Topeka City Code,
or to deface this notice,
Code Compliance Services
City of Topeka

3. No person shall remain in or enter any structure that has been so posted, except that entry may be made to repair or demolish such structure. If building or other permits are required, it shall be the responsibility of the owner, occupant, PUC, or agent to obtain and comply with such permits. No person shall remove or deface any such notice after it is posted until the required repairs or demolition have been completed and inspected. Any person violating this subsection shall be guilty of a misdemeanor.

4. The public works director shall rescind in writing, the designation as unfit for human habitation and remove the placard when the defect or condition upon which such designation and such placarding was based has been removed or eliminated so as to cause the structure to be safe, clean, and a fit place for human habitation.

DIVISION 5. APPEAL PROCEDURES.

Section 17. Designation of hearing officer; procedures, penalty for failure to comply with administrative order.

1. For purposes of this article, the city shall designate an administrative hearing officer who shall have the duty and authority to hear and enter such administrative orders as are necessary to the enforcement of this chapter.
2. The owner, occupant, PUC or agent may request a hearing within the time specified in the notice of violation. The administrative hearing officer shall schedule a hearing within three (3) working days of receipt of the hearing request. Written notice of the hearing date and time shall be provided to the person requesting the hearing by first class mail. At the hearing, the owner, occupant, PUC or agent shall be given the opportunity to present information relevant to the violation notice. The public works director also shall be given the opportunity to present information relevant to the violation notice. The hearing may be continued to a later time in exceptional cases where additional information is needed, as determined by the hearing officer.

3. The administrative hearing officer shall review the notice of violation and all relevant information. If the hearing officer determines after such review that: 1) a violation exists; 2) no request for a hearing has been made by the owner, occupant, PUC or taxpayer/agent; and 3) the condition remains unabated, then the hearing officer shall enter an administrative order. The administrative order shall contain: (1) a finding of whether the city properly sent notice to the owner, occupant, PUC or agent in accordance with provisions herein; (2) a finding of the violation conditions which exist; (3) the failure of the owner, occupant, PUC or agent to abate or otherwise remove the violated conditions and (4) an administrative monetary penalty for failure to correct the violations.

4. If, after any order of the administrative hearing officer has become final, the person to whom such order is directed shall fail, neglect, or refuse to obey such order, the public works director may cause such person to be prosecuted in Municipal Court for violations of this chapter.
5. The administrative hearing officer shall provide the option of daytime or telephone administrative hearing times.

6. The administrative hearing officer may grant variances from the provisions of this chapter or from applicable rules and regulations issued by the public works director when not inconsistent with the intent of this chapter.

Section 18. Criteria for granting variances.

The administrative hearing officer may grant variances from the provisions of this chapter or from applicable rules and regulations issued by the public works director when the administrative hearing officer finds that:

1. There is practical difficulty or unnecessary hardship connected with the performance of any act required by the property maintenance code and applicable rules and regulations;

2. Strict adherence to such provisions would be arbitrary in the case at hand;

3. Extension of time to comply would not provide an appropriate remedy in the case at hand; and

4. Such variance is in harmony with the general purpose of this chapter to secure the public health, safety and welfare.

DIVISION 6. ADMINISTRATIVE PENALTIES

Section 19. Administrative penalties.

1. Nuisance violations.

A. There shall be an administrative monetary penalty of one hundred dollars ($100.00) imposed on the property owner or in the case of inoperative vehicles, the vehicle owner for each violation under Article II Nuisances, of this
chapter that remains uncorrected after the time period stated in the notice of violation has elapsed.

B. The administrative monetary penalty for a second or subsequent violation for which an administrative penalty has been imposed under Article II Nuisances of this chapter that remains uncorrected after the time period stated in the notice of violation has elapsed for the same property within twelve (12) months of the same or substantially same violation shall be two hundred dollars ($200.00).

2. Property maintenance standards violation.

A. There shall be an administrative monetary penalty of one hundred dollars ($100.00) imposed on the owner for each violation under Article III Property Maintenance Standards of this chapter that remains uncorrected after the time period stated in the notice of violation has elapsed.

B. The administrative monetary penalty for a second or subsequent violation under Article III Property Maintenance Standard of this chapter for the same property within twelve (12) months of the same or substantially same violation for which an administrative penalty has been imposed shall be two hundred dollars ($200.00).

DIVISION 7. ABATEMENTS AND COST ASSESSMENTS.

Section 20. Abatements.

Upon the expiration of the voluntary compliance period stated in the notice of violation, the public works director shall reinspect the property. In the event that the owner, occupant, PUC or agent in charge of the premises neglects or fails to comply
with the notice requirements, the public works director may proceed to abate such violation. If abated, the public works director shall prepare a statement of costs incurred in the abatement along with any applicable administrative fees. The abatement of a violation of this chapter under the direction of the public works director shall not be a defense or excuse to the owner of property not conforming to this article.

Section 21. Abatement costs.

The amount of costs incurred by the City for abatement of nuisances, including any administrative costs, shall be paid by the property owner or in the case of inoperative vehicles the vehicle owner in accordance with the provisions contained in this chapter. The administrative costs for the abatement by the City of the following classes of violations of this chapter shall be:

a. General Nuisances $140.00
b. Weeds and grasses $140.00
c. Inoperative vehicles $175.00

Section 22. Assessment of costs.

The public works director shall give notice to the owner of the costs of abatement specifically including the administrative costs in the form and manner specified in K.S.A. 12-1617e or K.S.A. 12-1617f, and any amendments thereto. If the costs of removal or abatement remain unpaid after thirty (30) days following service of notice, the city may assess the costs against the property or pursue collection as provided in K.S.A. 12-1617e, 12-1617f, 12-1750, et seq. and K.S.A. 12-1, 115 and any amendments thereto.
DIVISION 8. CRIMINAL PENALTIES

Section 23. Criminal penalties.

It shall be unlawful for any person to fail to correct or to otherwise permit the existence of a violation of the provisions of this chapter. Any person found guilty of violating any of the sections in this chapter shall, be deemed guilty of a misdemeanor and punished as provided under Topeka City Code § 1-7.

ARTICLE II. NUISANCES

Section 24. Nuisance prohibited.

No person, firm, corporation, partnership or other business entity shall, knowingly or unknowingly, maintain or permit a nuisance to exist. Violation of this article shall be a misdemeanor, except in the case of graffiti. In the case of graffiti, the property owner is given ten (10) calendar days from the date of the receipt of the violation notice to remove or have the graffiti removed. If the owner does not do this within the prescribed time, then it shall be a misdemeanor.

Section 25. Illustrative enumeration.

The maintaining or permitting to be or remain on any public or private property of any of the following conditions is hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. Placement, storage or accumulation of garbage, animal feces, rubbish, trash, refuse, junk and other materials, metals, plumbing fixtures, appliances, auto parts, tires, fencing, lumber or other litter and stuffed, broken or discarded furniture, clothing, or other household items which creates an unsightly appearance. This section
applies without limitation to homeowners, renters, landlords, tenants, antique dealers, contractors, pawnbrokers, plumbers, precious metal dealers, secondhand goods dealers, or any other business whether or not required to be licensed under Topeka City Code Chapter 30, whether or not outside storage of items and materials is authorized by the zoning ordinances of the city and whether or not the building, land or property is occupied by human beings.

2. Any condition that provides harborage for rats, mice, snakes and other vermin. Every occupant of a dwelling or dwelling unit shall store and dispose of all garbage and any other organic waste which might provide food for insects or rats, in a clean and approved manner. Refuse containers shall meet the requirements of Topeka City Code § 122-1.

3. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

4. The carcasses of animals or fowl not disposed of within a reasonable time after death.

5. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances which are injurious to overland flow or ground water.

6. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

7. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
8. Any commercial, residential or accessory structure that is not secured or is in a condition that allows access by any person.

9. Any accumulation of graffiti that is visible from any public right-of-way or easement.

Section 26. Weeds/Grass and vegetation.

The existence of excessive accumulations or unintended growth of weeds, grasses, undergrowth and uncultivated plants which threatens or endangers the public health, safety or welfare or may reasonably pose a fire hazard, cause disease, harbor vermin and insects, or which adversely affects and impairs the economic welfare of the adjacent property is hereby prohibited. Weeds, grass, undergrowth and uncultivated plants in excess of twelve (12) inches in height will be presumed to be a nuisance.

Section 27. Inoperative Vehicles.

1. No junked, wrecked or inoperable vehicle(s) shall be stored or located at any business operating within fifty (50) feet of a school where, in the judgment of the public works director such storage or location of the vehicle(s) will jeopardize the public safety, health and welfare.

2. Any junked, wrecked or inoperable vehicle(s) or part thereof may only be stored or parked in conjunction with an otherwise licensed vehicle dealer, lawfully licensed auto repair related business, or lawfully licensed salvage yard, any and all of which must be operated in accordance with all applicable zoning requirements at the time of a violation notice in order for this exception to apply. The property owner shall have the burden of proof to show that they are operating a lawfully licensed business from the violation address and the property is zoned to allow this type of business use.
This exception shall not be construed to authorize the use or maintenance of any
premises contrary to any other provisions of any local, state, or federal law. If the
property owner fails to produce affirmative evidence of licensing and zoning compliance
as required by this section, the owner's defense under this section shall be stricken and
an order shall be issued for abatement of the vehicle or part thereof.

ARTICLE III. PROPERTY MAINTENANCE STANDARDS

DIVISION 1. PREMISES

Section 28. Fences.

All fences shall be of manufactured fencing materials, including metal, wood,
masonry or other inert material such as rock or stone. Such fences shall be maintained
in good condition. The permissible height and other characteristics of all fences shall
conform to the applicable ordinances of this city. Wherever any egress from the
dwelling area opens into the fenced area, there shall be a gate or other means of exiting
from the fenced premises.

Section 29. Refuse Containers.

Every owner of premises containing three or more dwelling units or the owner of
a commercial structure shall supply facilities or refuse containers for the clean and safe
storage and disposal of garbage and rubbish. In the case of single- or two-family
dwellings, it shall be the responsibility of the occupant to furnish such facilities or refuse
containers. The owner of any dumpster creating or contributing to the creation of a
violation may be a liable party. Refer to Topeka City Code § 122-1.
DIVISION 2. EXTERIOR STRUCTURE

Section 30. Weather tight conditions.

The foundation, roof, roof overhang, exterior wall, exterior door, skylight and window of every residential or commercial structure shall be reasonably weather tight, watertight and damp free, and shall be kept in sound condition and good repair. If exterior openings such as doors and windows are secured against entry by boards, the exterior surface of the boards shall be protected from the elements by paint or other protective treatment. Gutters and downspouts, if installed, shall be maintained in sound condition and good repair. All exterior doors shall be constructed so that the space between the lower edge of the door and the threshold shall not exceed three-eighths (3/8) inch. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. Peeling paint or lack of other protective treatment on ten percent (10%) or more of all exterior surfaces is prohibited. Facia, soffits, windows, and trim surfaces must be in good repair with ninety percent (90%) of the paint intact.

Section 31. Window and door screens.

There is a need for protection against mosquitoes, flies and other flying insects. The owner of any residential or commercial structure shall provide and maintain properly fitting, functional screen doors with a self-closing device at every door designed for ventilation and which opens directly from a structure to outside space. Properly fitting framed screens are also required for every window used for ventilation.

Section 32. Rat and rodent free conditions.

Every residential or commercial structure shall be maintained in a rat/rodent free
condition. No owner or occupant of a structure or premises shall store, place, or allow any materials to accumulate that may serve as food or harborage for rats/rodents in a site accessible to rats/rodents. Every opening located at or near ground level of structure that might provide an entry for rats/rodents shall be covered with a framed screen or such other device as will prevent their entrance.

Section 33. Structure in good repair.

Every foundation, roof, exterior wall, outside stairs/fire escapes, every porch, and every appurtenance thereto of commercial or residential structures shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

DIVISION 3. INTERIOR STRUCTURE

SUBDIVISION 1. RESIDENTIAL

Section 34. Interior in good repair.

Every floor, interior wall, ceiling, inside stairs and every appurtenance thereto shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

Section 35. Kitchen.

Every occupied dwelling unit shall have a room or portion of a room in which food may be prepared or cooked, and which shall be equipped with the following:

1. Kitchen sink. A kitchen sink in good working condition and properly connected to an approved water supply system which provides at all times a sufficient amount of heated and unheated running water under pressure, and which is connected to an approved sewer system.
2. **Cabinets and shelves.** Cabinets and shelves for the storage of eating, drinking and cooking equipment and utensils; for food that does not under ordinary summer conditions require refrigeration for safekeeping; and a counter or table for food preparation. Such cabinets, shelves and counter or table shall be of sound construction and furnished with surfaces that are easily cleanable and that will not impart any toxic effect to food.

3. **Stove and refrigerator.** A stove or similar device for cooking food, and a refrigerator for the safe storage of food at temperatures less than forty-five degrees (45°) Fahrenheit but more than thirty-two degrees (32°) Fahrenheit under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided, that such stove or similar device, or refrigerator need not be installed when a dwelling unit is not occupied or if the occupant is expected to provide the stove or similar device or refrigerator, sufficient space and adequate connections for the safe and efficient installation and operation of the stove or similar device, or refrigerator shall be provided.

**Section 36. Bathroom.**

1. Within every occupied dwelling unit there shall be a non-habitable room which affords privacy to a person within the room and which is equipped with a flush toilet in good working condition. Such flush toilet shall be equipped with easily cleanable surfaces, shall be connected to a water system that at all times provides a sufficient amount of running water under pressure to cause the toilet to be operated properly, and shall be connected to an approved sewer system.
2. Within every occupied dwelling unit there shall be a sink that may be in the same room as the flush toilet. If the sink is in another room, the sink shall be located in close proximity to the door leading into the room in which the flush toilet is located. The sink shall be in good working condition, shall be properly connected to an approved water supply system which provides at all times a sufficient amount of heated and unheated running water under pressure, and shall be connected to an approved sewer system.

3. Within every occupied dwelling unit there shall be a bathtub or shower in good working condition which may be in the same room as the flush toilet or in another room. The bathtub or shower shall be properly connected to an approved water supply system which provides at all times an adequate amount of heated and unheated water under pressure, and shall be connected to an approved sewer system.

Section 37. Means of ingress and egress.

1. Ingress to or egress from each dwelling unit shall be provided without passing through any other dwelling or dwelling unit. Every dwelling unit shall have two means of approved egress, one of which shall be a doorway with minimum headroom of six (6) feet six (6) inches and leading to open space at ground level, the second of which may be a doorway or window.

2. Every sleeping room shall have two (2) means of approved egress, including one door with a minimum headroom of six (6) feet six (6) inches. If the second means of egress is a window, it shall have minimum inside measurements of twenty-four (24) inches in height, twenty (20) inches in width, and a minimum of five point seven (5.7) square feet overall.
Each door that is required by two (2) above shall be equipped with safe, functioning hardware, including but not limited to hinges and doorknobs.

Section 38. Handrails.
Structurally sound handrails shall be provided on any steps containing four (4) risers or more. A single handrail is sufficient for steps enclosed on both sides. If steps are not enclosed, handrails with balusters spaced no more than six (6) inches on center shall be provided. Porches and balconies located more than three (3) feet above the adjacent area/ground shall have structurally sound protective handrails thirty (30) to thirty-six (36) inches high. If the porch or balcony is unenclosed, balusters spaced no more than six (6) inches on center shall also be provided. Alternate systems providing at least the same degree of protection, if approved by the appropriate authority, shall be acceptable.

Section 39. Locks.
No person shall rent to another for occupancy any dwelling or dwelling unit unless all exterior doors and ground floor windows of the dwelling or dwelling unit are equipped with safe, functioning locking devices. Padlocks, hasps, or other similar devices shall not be used as the locking device on exterior doors and ground floor windows.

Section 40. Window area and ventilation.
1. Every habitable room shall have at least one (1) unobstructed window or skylight facing outdoors. If the habitable room is connected to a room or area used seasonally (e.g. porch), then adequate daylight must pass through the connection.
2. Every habitable room shall have at least one (1) window or skylight facing directly outdoors which can be easily opened, or such other device (i.e. air/central air conditioning) as will ventilate the room adequately. If the habitable room is connected to a room or area used seasonally (e.g. porch), adequate ventilation must pass through the connection.

3. Every bathroom and every non-habitable room used for food preparation, shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in such rooms if they are equipped with an approved ventilation system in working condition.

4. The total open window area in each room shall be equal to at least the minimum as required under this division except where approved devices affording adequate ventilation and humidity control are supplied.

Section 41. Heating.

1. Every occupied dwelling, dwelling unit, rooming unit and residential board and care facility shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms and bathrooms therein to a temperature of at least sixty-five degrees (65°) Fahrenheit at a distance of three (3) feet above floor level.

2. No owner or occupant shall install, operate or use a space heater employing a flame in any structure unless such use is in conformance with the manufacturers recommendations.
Section 42. Electric service minimum requirements.

1. Every occupied dwelling or dwelling unit including all public and common areas shall be supplied with electrical service, outlets and fixtures which shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the ordinances of the city.

2. Every habitable room shall contain at least two (2) separate wall type duplex electric convenience outlets, or one (1) such duplex convenience outlet and one (1) supplied wall or ceiling type electric light fixture.

3. Every bathroom, kitchen or kitchenette, laundry room, furnace room and public hall shall contain at least one (1) supplied ceiling or wall type electric light fixture.

4. Convenient switches or equivalent devices for turning on one (1) light in each room or hallway shall be located so as to permit the area ahead to be lighted.

Section 43. Plumbing fixtures.

1. Every plumbing fixture and all water and waste water pipes shall be properly installed and maintained in good, clean, and safe working condition.

2. Every bathroom and kitchen floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean condition.

Section 44. Utilities, equipment and required appliances.

1. Every plumbing fixture and pipe, every chimney, flue and smoke pipe, and every other piece of utility equipment, or appliance which is present in a dwelling or dwelling unit, or on the premises and which is required under the property maintenance
code, shall be constructed, installed, and maintained in conformance with the appropriate ordinances of the city.

2. No owner, operator or occupant shall cause any utility service or utility equipment which is required under the property maintenance code to be removed or shut off or discontinued for any occupied dwelling or dwelling unit except for such temporary interruptions as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

Section 45. Fire protection.

All construction and materials, ways and means of egress, and installation and use of equipment shall conform to the appropriate statutes, ordinances and regulations dealing with fire protection of this city and the State of Kansas. Smoke detectors are required in all habitable structures per the building code of the city.

Section 46. Maximum occupancy.

The maximum occupancy of any dwelling unit shall not exceed the following requirements:

1. For the first occupant, one hundred fifty (150) square feet of floor space, and at least one hundred (100) square feet of floor space for every additional occupant thereafter. The floor space shall be calculated on the basis of total habitable room area.

2. The total number of persons shall not exceed two (2) times the number of its habitable rooms.

Section 47. Ceiling height.

The ceiling height of any habitable room shall be at least seven (7) feet; except
any habitable room that is under a sloping ceiling shall have at least one-half (1/2) of the
floor area with a ceiling height of seven (7) feet. The floor area of that part of such a
room where the ceiling height is less than five (5) feet shall not be used in computing
the total floor area of the room for the purpose of determining the maximum permissible
occupancy.

Section 48. Space below grade.

No space located partially/fully below grade shall be used as a habitable room of
a dwelling unit unless it meets all standards of above ground structures.

Section 49. Insects and Rodent Extermination.

Every occupant of a structure containing a single dwelling unit shall be
responsible for the extermination of insects, rodents and rats on the premises; and
every occupant of a dwelling unit in a structure containing more than one (1) dwelling
unit shall be responsible for such extermination when the dwelling unit is the only one
infested. Whenever infestation is caused by failure of the owner to maintain a dwelling
in a reasonably rat proof or insect proof condition, extermination shall be the
responsibility of the owner. Whenever infestation exists in two (2) or more of the
dwelling units in any structure, or in the shared or public parts of any structure
containing two (2) or more dwelling units, extermination thereof shall be the
responsibility of the owner.

SUBDIVISION 2. ROOMING HOUSES AND RESIDENTIAL BOARD AND CARE
FACILITIES

Section 50. Requirements generally.

In addition to meeting all the requirements imposed under Subdivision 1,
Residential, all rooming houses and residential board and care facilities shall also comply with the sections contained in this subdivision.

Section 51. Maintenance in a clean condition.

1. No owner or other person shall occupy or rent to another person any dwelling or dwelling unit unless such are clean and fit for human occupancy and comply with all applicable legal requirements of the city and state.

2. Every owner of a premise containing two (2) or more dwelling units shall maintain in a clean condition the shared or public areas of the dwelling and premises thereof.

3. Every occupant of a premise shall maintain in a clean condition that part or those parts of any dwelling, dwelling unit and premises thereof that such person occupies and controls.

Section 52. Bathroom.

At least one flush toilet, sink and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for every six (6) persons or less residing in a residential board and care facility, rooming house or dormitory room therein, including members of the operator's family where they share the use of the facilities; provided that:

1. Where rooms are rented only to males, flush urinals may be substituted for not more than one-half (1/2) the required number of flush toilets.

2. All such facilities shall be located therein, as to be reasonably accessible to all persons sharing such facilities and from a common hallway.

3. Every sink and bathtub or shower shall meet the requirements of
Subdivision 1, Residential.

Section 53. Bedding, bed linen and towels.

Unless exempted by the public works director in writing, the operator of every residential board and care facility or rooming house shall change any supplied bed linen and towels therein at least once a week, and prior to the renting of any room to any occupant. The operator shall be responsible for the maintenance, cleanliness and good repair of any supplied bedding, bed linen and towels.

Section 54. Size of rooms for sleeping purposes in residential board and care facilities and rooming houses.

Every room occupied for sleeping purposes by one (1) person shall contain at least one hundred ten (110) square feet of floor space. Ten (10) square feet of additional floor space is required for a second (2nd) person, and fifty (50) square feet of additional floor space is required for each person over two (2) occupants. Every such room shall also contain at least four (4) square feet of closet space per occupant with at least an obstructed height of five (5) feet. If any such room is lacking such required area in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy, except that in a rooming house the closet or closet space may be provided in another portion of the structure.

Section 55. Means of egress.

1. Every rooming unit shall have immediate access to two (2) or more safe, unobstructed means of egress, one (1) of which shall be a doorway, appropriately
marked, with minimum head room of six (6) feet six (6) inches, leading to a safe and
open space at ground level.

2. Ingress to or egress from each rooming unit shall be provided without
passing through any other rooming unit or dwelling unit.

ARTICLE IV. UNSAFE STRUCTURES

Section 56. Petition; issuance of complaint.

Whenever a petition is filed with the public works director by at least five (5)
residents of the city charging that any structure is unfit for human use or habitation, or
whenever it reasonably appears to the public works director that any structure is unfit for
human use or habitation, the public works director shall, if the preliminary investigation
discloses a basis for such charges, issue and cause to be served upon the owner, every
mortgagee of record, and all parties with a legal interest or an equitable interest filed of
record with the Shawnee County Register of Deeds Office in such structure, including
persons in possession, a complaint stating the charges in that respect. Such complaint
shall contain a notice that a hearing will be held before the administrative hearing officer
at a place therein fixed not less than ten (10) days nor more than thirty (30) days after
the serving of the complaint; provided, that the owner, mortgagee and parties in interest
shall be given the right to file an answer to the complaint and to appear in person, or
otherwise, and give testimony at the place and time fixed in the complaint.

Section 57. Determination of structure as unfit for use or habitation.

The administrative hearing officer may determine that a structure is unfit for
human use or habitation if conditions are found to exist in such structure which are
dangerous or injurious to the health, safety or welfare of the occupants of such buildings
or other residents of the city, or which have a blighting influence on properties in the
area.

**Section 58. Illustrative enumeration.**

This enumeration shall not be deemed or construed to be conclusive, limiting, or
restrictive:

1. Whenever the building or structure, or any portion thereof, because of (i)
dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement
or instability of any portion of the ground necessary for the purpose of supporting such
building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other
cause, is likely to partially or completely collapse;

2. Whenever any portion thereof has been damaged by fire, tornado, wind,
flood or by any other cause, to such an extent that the structural strength or stability
thereof is materially less than it was before such catastrophe and is less than the
minimum requirements of the building code for new buildings of similar structure,
purpose or location;

3. Whenever any portion or member or appurtenance thereof is likely to fail,
or to become detached or dislodged, or to collapse and thereby injure persons or
damage property;

4. Dilapidation, disrepair or structural defects;

5. Whenever any portion of a building, or any member, appurtenance or
ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so
anchored, attached or fastened in place so as to be capable of resisting a wind pressure
of one half (1/2) of that specified in the building code for new buildings of similar
structure, purpose or location without exceeding the working stresses permitted in the
building code for such buildings;

6. Defects therein increasing the hazard of fire, accident or other calamities;

7. Walls, sidings or exteriors of a quality and appearance not commensurate
with the properties in the neighborhood that creates an unsightly appearance and
causes a blight to adjoining properties and the neighborhood;

8. Failure to meet the minimum standards established by Article II of this
chapter; or

9. Any violation of fire or building or regulations that renders the structure
unsafe.

Section 59. Order to repair or demolish.

1. After notice and hearing under this article, if the administrative hearing
officer determines that the structure under consideration is unfit for human use or
habitation or otherwise endangers the life, health, property or safety of its inhabitants or
the public, the administrative hearing officer shall state in writing the findings of facts in
support of such determination and shall issue and cause to be served upon the owner
thereof an order which:

A. If repair, alteration or improvement of the structure can be made at
a reasonable cost in relation to the value of the structure, which cost shall not
exceed thirty percent (30%) of the replacement value of such structure as
established by the Shawnee County Appraiser, the owner of the structure shall,
within the time specified in the order, repair, alter or improve such structure to
render it fit for human use or habitation; or
B. If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the replacement value, that is to say, thirty percent (30%) or less of the replacement value of such structure, which percentage is hereby deemed to be a reasonable standard by which to require either repair, alteration or improvement, or removal or demolition, the owner shall within the time specified in the order remove or demolish such structure.

C. If there is no replacement value of the structure established by the Shawnee County Appraiser then the public works director shall cause the structure to be valued for purposes of replacement by a state certified appraiser.

2. The administrative hearing officer shall have the power to affirm, modify or revoke the notice or order provided for in this section, and may grant an extension of time not to exceed ninety (90) days for the performance of any act required where the administrative hearing officer finds that there is practical difficulty or undue hardship connected with the performance of any act required by the provisions of this article or by applicable rules and regulations issued pursuant thereto and that such extension is in harmony with the general purpose of this article to secure public health, safety and welfare.

Section 60. Service of complaints and orders.

Complaints or orders issued shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such person are unknown and the same cannot be ascertained by the public works director in the exercise of reasonable diligence, and the public works director shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the
complaint or order once each week for two (2) consecutive weeks in the official city newspaper. A copy of such complaint or order shall also be posted in a conspicuous place on the premises affected by the complaint or order, and copies of such complaint or order shall be filed with the Register of Deeds Office, Shawnee County, and the Clerk of the District Court of Shawnee County, and such filings of the complaint or order shall have the same force and effect as other lis pendens orders provided by law.

Section 61. Failure to comply with order.

1. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the public works director may cause such structure to be repaired, altered or improved, or to be vacated and closed.

2. If the owner fails to comply with an order to remove or demolish the structure, the public works director may cause such structure to be removed or demolished.

Section 62. Inspection before demolition.

All demolition to be undertaken by the city shall be preceded by an inspection of the premises by the public works director to determine the need for extermination procedures and asbestos abatement procedures. If the premises are found to be infested, appropriate rodent extermination shall be instituted before, during and after demolition to prevent the spread of rodents to adjacent properties. If asbestos abatement procedures are necessary, appropriate procedures will be instituted for asbestos removal.

Section 63. Filling in of excavations.

Whenever a structure is demolished, whether carried out by the owner or by the
public works director, such demolition shall include the filling in of the excavation
remaining on the property on which the demolished structure was located, in such
manner as to eliminate all potential danger to the public health, safety or welfare arising
from such excavation. The excavation must be filled with non-degradable materials. All
foundation materials, if allowable as fill, must be lowered a minimum of two (2) feet
below grade. Concrete basement floors must be holed to permit drainage from the site.

Section 64. Costs may be assessed as a lien.

1. The amount of the cost of repairs, alterations or improvements, vacating
and closing, or removal or demolition including the costs of extermination and/or
asbestos abatement procedures by the public works director shall be a lien against the
real property upon which such cost was incurred and such lien, including as part thereof
allowance of the public works director's costs, may be foreclosed in judicial proceedings
in the manner provided or authorized by law for loans secured by liens on real property,
or shall be assessed as a special assessment against the lot or parcel of land on which
the structure was located. The city clerk shall, at the time of certifying other city taxes,
certify the unpaid portion of the aforesaid costs. The county clerk shall also extend the
same on the tax rolls of the county against the lot or parcel of land. If the structure is
removed or demolished by the public works director, salvage value of the structure if
any shall be credited against the costs of removal or demolition.

2. Any taxes, assessments, fees or other charges imposed by this chapter,
including any assessments levied against private property owners for the purpose of
recovering demolition costs incurred, shall be deposited in the city unsafe structure
fund.
Section 65. Injunction restraining imposition of administrative order.

Any person affected by an order issued by the administrative hearing officer may petition the district court for an injunction restraining the imposition of the order, and the court may, upon such petition, issue a temporary injunction, pending the final disposition of the cause; provided, however, that such person shall petition such court within thirty (30) days after the posting or service of the order of the administrative hearing officer. Hearings shall be held by the district court on such petitions as provided by K.S.A. 17-4759. The remedies provided in this section shall be exclusive remedies, and no person affected by an order of the administrative hearing officer shall be entitled to recover any damages for action taken pursuant to any order of the administrative hearing officer or because of compliance by such person with any order of the administrative hearing officer.

Section 66. Construction of article.

Nothing in this article shall be construed to abrogate or impair the power of the courts or of any department of the city to enforce any provisions of its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution or any other laws or ordinances.

Section 67. That original City of Topeka Code Chapter 26, Article XI, Unsafe structures, including §§ 26-546 through 26-558 inclusive, Chapter 66, Article II, Nuisances, including §§ 66-25 through 66-36 inclusive, Chapter 66, Article III, Junked and abandoned vehicles, including §§ 66-56 through 66-62 inclusive, Article X, Weed Abatement, including §§ 78-381 through 78-386 inclusive, and Chapter 82, Article II,
Housing Code, including §§ 82-31 through 82-270 inclusive are hereby specifically repealed.

Section 68. This Ordinance shall take effect and be in force ninety (90) days after its passage, approval and publication in the official City newspaper.

PASSED and APPROVED by the City Council__________________________ APR 06 2004.

James A. McClinton, Mayor

ATTEST: Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY DATE 4/6/04 BY
TO BE CODIFIED
NOT TO BE CODIFIED