

(Published in the Topeka Metro News December 4, 2023)

**ORDINANCE NO. 20464**

AN ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning Vacant Property Registration, amending Chapter 8.65 of the Topeka Municipal Code and repealing original sections.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 8.65.010, Purpose and intent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Purpose and intent.**

It is the purpose and intent of the Governing Body to establish a process to address the deterioration, crime, and decline in value of properties located in neighborhoods caused by vacant properties ~~with mortgages in foreclosure~~ and to identify, regulate, limit and reduce the number of these properties. The Governing Body finds that occupied structures are generally better maintained when compared to vacant structures. Chronically vacant ~~and unutilized structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations~~ are often not properly ~~or diligently~~ maintained, which contributes to blight, fires, trespassers, lower property values, and has a negative impact on the ~~residential areas where they are located~~ neighborhood. It is the Governing Body's further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are ~~in foreclosure or are~~ chronically vacant ~~and unutilized~~.

Section 2. That section 8.65.020, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

28                   **Definitions.**

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

32                   ~~“Default” shall mean that the mortgagor has not complied with the terms of the~~  
33                   ~~mortgage on the property, or the promissory note, or other evidence of the debt,~~  
34                   ~~referred to in the mortgage.~~

35                   “Director” shall mean the Chief of Police or designee.

36                   “Enforcement officer” shall mean any law enforcement officer, building official,  
37                   zoning inspector, code enforcement officer, fire inspector, building inspector, or other  
38                   person authorized by the City to enforce any applicable ordinance.

39                   ~~“Foreclosure” or “foreclosure action” shall mean the legal process by which a~~  
40                   ~~mortgagee, or other lien holder, terminates or attempts to terminate a property owner’s~~  
41                   ~~equitable right of redemption to obtain legal and equitable title to the real property~~  
42                   ~~pledged as security for a debt or the real property subject to the lien. The legal process~~  
43                   ~~is not concluded until the property obtained by the mortgagee, lien holder, or designee,~~  
44                   ~~by certificate of title, or any other means, is sold to a bona fide purchaser in an arm’s~~  
45                   ~~length transaction to satisfy the debt or lien.~~

46                   “Governmental entities” shall mean any Federal agency, city, county, school  
47                   district or other taxing subdivision.

48                   ~~“Mortgagee” shall mean the creditor, including but not limited to trustees;~~  
49                   ~~mortgage servicing companies; lenders in a mortgage agreement; any agent, servant,~~  
50                   ~~or employee of the creditor; any successor in interest; or any assignee of the creditor’s~~

51 ~~rights, interests or obligations under the mortgage agreement; or any other person or~~  
52 ~~entity with the legal right to foreclose on the real property, excluding governmental~~  
53 ~~entities.~~

54 “Owner” shall mean every person; or ~~entity, or mortgagee~~, who alone or severally  
55 with others has legal ~~or equitable~~ title to any real property; ~~has legal care, charge, or~~  
56 ~~control of any such property; is in possession or control of any such property; and/or is~~  
57 ~~vested with possession or control of any such property, excluding governmental entities.~~  
58 ~~A property manager shall not be considered the owner.~~ In the absence of substantial  
59 evidence to the contrary, records of the Shawnee County Clerk’s Office,  
60 ~~Registrar~~Register of Deeds, certified copies of court records or judgments of any court,  
61 ~~copies of lease agreements, contracts for deed, mortgages, tax records, rental~~  
62 ~~agreements and other financial documents related to the property shall be conclusive~~  
63 ~~evidence of the ownership of the property.~~

64 “Property manager” shall mean any party designated by the owner as  
65 responsible for inspecting, maintaining and securing the property as required in this  
66 chapter.

67 “Real property” shall mean any residential or commercial land and/or buildings,  
68 ~~leasehold improvements and anything affixed to the land, or portion thereof identified by~~  
69 a property parcel identification number, located in the City limits.

70 “~~Registrable property~~” shall mean:

71 ~~(1) Any real property located in the City, whether vacant or occupied, that meets~~  
72 ~~any of the following conditions:~~

73 ~~(i) The property is the subject of a foreclosure action filed by the mortgagee;~~

74           ~~(ii) A judgment of foreclosure has been entered;~~  
75           ~~(iii) A foreclosure sale has occurred and title transferred to the beneficiary of a~~  
76           ~~mortgagee; or~~  
77           ~~(iv) The property has been transferred to a mortgagee under a deed in lieu of~~  
78           ~~foreclosure/sale.~~

79           ~~The designation of a property as “registrable” shall remain in place until such~~  
80           ~~time as the property is sold to a bona fide purchaser in an arm’s length transaction or~~  
81           ~~the foreclosure action has been dismissed and any default on the mortgage has been~~  
82           ~~cured.~~

83           ~~(2) Any property that is vacant for more than 180 days.~~

84           “Registry” shall mean a ~~web-based electronic database of searchable real~~  
85           ~~property records, used by the City to allow mortgagees and owners the opportunity to~~  
86           ~~register vacant properties and pay applicable fees as required in this chapter.~~

87           “Renovation activities” shall mean actions that demonstrate that property is being  
88           repaired, remodeled, or rehabilitated. Such activities shall include, but not be limited to,  
89           painting, roofing, wallpapering, tiling, carpeting, installing cabinets/counter tops,  
90           installing heating/cooling systems, and repairs to any part of the structure including, but  
91           not limited to, the foundation, windows, doors, siding, and porches.

92           ~~“Semiannual registration” shall mean six months from the date of the first action~~  
93           ~~that requires registration, as determined by the Director, and every subsequent six~~  
94           ~~months. The date of the initial registration may be different than the date of the first~~  
95           ~~action that required registration.~~

96           “Utility” shall mean any utility and/or service that is essential for a building to be  
97           habitable and/or perform a service necessary to comply with all City ordinances. This  
98           includes, but is not limited to, electrical, gas, water, and sewer.

99           “Vacant” shall mean any building or structure intended for residential or  
100          commercial use which does not appear to be occupied or in use by the owner or tenant  
101          on a permanent, nontransient basis. Evidence that a property is vacant shall include any  
102          condition that on its own, or combined with other conditions present, would lead a  
103          reasonable person to believe that the property has not been occupied or in use for at  
104          least 180 days. Such conditions may include, but are not limited to: overgrown and/or  
105          dead vegetation; past due utility notices and/or disconnected utilities; accumulation of  
106          trash, junk or debris; abandoned vehicles, auto parts and/or materials; the absence of  
107          furnishings and/or personal items consistent with habitation or occupancy; the presence  
108          of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars,  
109          flyers and/or mail; statements by neighbors, passers-by, delivery agents or government  
110          agents; and/or the presence of boards over doors, windows or other openings.

111          Section 3.     That section 8.65.030, Establishment of a registry, of The Code of  
112          the City of Topeka, Kansas, is hereby amended to read as follows:

113                 **Establishment of a registry.**

114          The Director shall establish a registry cataloging each ~~registrable~~ vacant property  
115          ~~containing the information required by~~ pursuant to this chapter.

116          Section 4.     That section 8.65.040, Registration of property subject to mortgage  
117          foreclosure, of The Code of the City of Topeka, Kansas, is hereby repealed.

118                 ~~**Registration of property subject to mortgage foreclosure.**~~

119           ~~(a) Within 10 days of the date that the property becomes registrable, the~~  
120           ~~mortgagee shall:~~

121           ~~(1) Register the real property and indicate whether the property is vacant; and~~

122           ~~(2) If the property is vacant, the mortgagee shall designate in writing a property~~  
123           ~~manager to inspect, maintain and secure the real property. A separate registration will~~  
124           ~~be required for each registrable property.~~

125           ~~(b) Initial registration pursuant to this section shall contain at a minimum the~~  
126           ~~name of the mortgagee, the mailing address of the mortgagee, email address,~~  
127           ~~telephone number and name of the property manager and the manager's mailing~~  
128           ~~address, email address, and telephone number.~~

129           ~~(c) At the time of initial registration each registrant shall pay a nonrefundable~~  
130           ~~semiannual registration fee to be determined by the Director, with the approval of the~~  
131           ~~City Manager, in an amount not to exceed \$500.00 for each registrable property.~~  
132           ~~Subsequent semiannual registrations of registrable properties and fees in that amount~~  
133           ~~shall be due within 10 days of the expiration of the previous registration.~~

134           ~~(d) If the mortgage and/or servicing on a property is sold or transferred, the new~~  
135           ~~mortgagee is subject to all the terms of this chapter. Within 10 days of the transfer, the~~  
136           ~~new mortgagee shall register the property or update the existing registration. The~~  
137           ~~previous mortgagee(s) will not be released from the responsibility of paying all previous~~  
138           ~~unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the~~  
139           ~~property.~~

140           ~~(e) If the mortgagee sells or transfers the registrable property in a non-arm's-~~  
141           ~~length transaction to a related entity or person, the transferee is subject to all the terms~~

of this chapter. Within 10 days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the mortgagee was at the time registration was required, including but not limited to unregistered periods during the foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the property.

(f) Properties subject to this section shall remain subject to the semiannual registration requirement, the security, and maintenance standards of this section as long as the property remains registrable.

(g) Failure of the mortgagee and/or owner to properly register, pay the registration fees, or to modify the registration to reflect a change of circumstances as required by this chapter is a violation of this chapter and shall be subject to a civil penalty of not to exceed \$250.00 for each violation. Each property shall constitute a separate offense. A citation may be issued every 30 days by the Director until a registration statement, payment of the registration fees, amendment, or other statement required by this chapter is filed.

(h) If the civil penalties are not paid within 30 days from the payment date or, if appealed pursuant to Chapter 2.45 TMC, 30 days from the final decision of the Hearing Officer, the obligation shall constitute a lien upon the real property and shall be assessed as a special assessment against the property that is the subject of the requirement. The City Clerk shall certify the unpaid portion of the penalty to the County

165 ~~Clerk who shall collect the assessment at the same time as ad valorem property taxes.~~

166       Section 5. That section 8.65.050, Registration of vacant property, of The Code  
167 of the City of Topeka, Kansas, is hereby amended to read as follows:

168       **Registration of vacant property.**

169       (a)     (1) Any owner of vacant property located within the City shall register  
170 the real property within 10 days after the property becomes vacant, or within 10 days  
171 after assuming ownership of the property, whichever is later.

172             (2) An owner of vacant property shall not be required to register the  
173 real property if the owner is performing renovation activities or has temporarily  
174 vacated the property for a period not in excess of 180 days.

175       (b)     ~~Initial~~Registration pursuant to this section shall contain at a minimum the  
176 name of the owner, the mailing address of the owner, email address, and telephone  
177 number of the owner, and, if applicable, the name and telephone number of the property  
178 manager and the manager's address, email address, and telephone number.

179       (c)     If the owner resides outside a 60-mile radius of the City limits, the owner  
180 shall appoint an agent who resides within the City limits. The owner shall provide the  
181 agent's full name, property management company name (if applicable), email address  
182 (if applicable), telephone number and mailing address.

183       ~~(d) — At the time of initial registration each registrant shall pay a nonrefundable~~  
184 ~~semiannual registration fee to be determined by the Director, with the approval of the~~  
185 ~~City Manager, in an amount not to exceed \$500.00 for each vacant property.~~  
186 ~~Subsequent semiannual registrations of vacant properties and fees in that amount are~~  
187 ~~due within 10 days of the expiration of the previous registration.~~



(ed) If the property is sold or transferred, the new owner is subject to all the terms of this chapter. Within 10 days of the transfer, the new owner shall register the vacant property or update the existing registration, on a form provided by the Director. ~~The previous owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that owner's involvement with the vacant property.~~

(fe) ~~Properties subject to this section shall remain subject to the semiannual registration requirement, the security, and maintenance standards of this section as long as the property is vacant.~~ An owner shall notify the Director, on a form provided by the Director, when the property is no longer vacant.

~~(g) Properties registered as a result of this section are not required to be registered again under TMC 8.65.040.~~

(hf) Failure of the an owner to properly register, ~~pay registration fees, or to modify the registration to reflect a change of circumstances as required by this chapter~~ is a violation of this chapter and shall be subject to a civil penalty of not to exceed \$250.00 for each violation. ~~Each property shall constitute a separate offense. A citation may be issued every 30 days by the Director until a registration statement, payment of registration fees, amendment, or other statement required by this chapter is filed.~~

(ig) If the civil ~~penalties are~~ penalty is not paid within 30 days from the payment date or, if appealed pursuant to Chapter 2.45 TMC, 30 days from the final decision of the Hearing Officer, the obligation may be collected in the same manner as a personal debt of the owner to the City and/or through placement of ~~shall constitute~~ a lien upon the real property ~~and shall be assessed~~ as a special assessment against the property

that is the subject of the requirement. The City Clerk shall certify the unpaid portion of the penalty to the County Clerk who shall collect the assessment at the same time as ad valorem property taxes.

Section 6. That section 8.65.060. Maintenance requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Maintenance requirements.**

~~Each mortgagee of a registrable property and each~~ owner of a vacant property shall maintain the properties subject to this chapter in accordance with the property maintenance code adopted in TMC 8.60.010 and all other codes adopted by the City.

Section 7. That section 8.65.070, Security requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Security requirements.**

(a) Properties ~~subject to this chapter~~ that are vacant shall be maintained by the owner ~~or mortgagee~~ in a secure manner so as not to be accessible to unauthorized persons.

(b) A “secure manner” shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing of the window.

~~(c) If a property is registrable, a property manager shall be designated by the mortgagee and/or owner to perform the work necessary to bring the property into~~

~~compliance with TMC 8.65.060 and the property manager must perform regular inspections to verify compliance with the requirements of this chapter and any other applicable laws.~~

~~(d) When a property subject to this chapter becomes vacant, it shall be posted with the name and 24-hour contact telephone number of the property manager. The property manager shall be available to be contacted by City staff Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign, which shall be at least three inches by five inches, shall be placed on the front door. The property manager shall ensure that the sign is made or covered with weather-resistant materials. The sign shall contain the following language with supporting information:~~

~~THIS PROPERTY IS MANAGED BY \_\_\_\_\_. THE PROPERTY MANAGER CAN BE CONTACTED BY TELEPHONE AT \_\_\_\_\_ OR BY EMAIL AT \_\_\_\_\_.~~

~~(e) Failure of the mortgagee and/or owner to secure a property subject to this chapter, and post and maintain the signage noted in this section, is unlawful and punishable in accordance with TMC 1.10.070.~~

Section 8. That original § 8.65.010, § 8.65.020, § 8.65.030, § 8.65.050, § 8.65.060 and § 8.65.070 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 9. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 10. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 11. Should any section, clause or phrase of this ordinance be declared

invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on November 21, 2023.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
Michael A. Padilla, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk