

(Published in the Topeka Metro News May 6, 2009)

ORDINANCE NO. 19251

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 70-121, § 70-123 and § 70-193, concerning Fire Prevention and Protection and adopting the 2006 Life Safety Code, and specifically repealing said original sections as well as § 70-122, § 70-191, § 70-192, and § 70-195 through § 70-199.

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

Section 1. That section 70-121, Adopted, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Adopted.

(a) There is hereby adopted by reference chapters 1,~~2~~, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 17, 19, ~~20~~, 21 (~~sections 21-1 and 21-2~~), 23 (~~except sections 23-2.1.2, 23-2.1.3.1, 23-2.1.3.2, 23-2.1.3.3, 23-3.1.2.1, 23-3.1.2.2, 23-3.1.3.1, 23-3.1.3.2, 23-3.1.3.3, 23-4.1.4~~), 24, 25, 26, 27, ~~28~~, 29, 30 (~~sections 30-1 through 30-8~~), 31, ~~32~~33, 34, 35, 37, 39, 40, 41, 42, ~~appendix~~Annex A and ~~appendix~~Annex B of the Life Safety Code, ~~1994~~2006 edition, as published by the National Fire Protection Association, Inc.

(b) Chapter 2 of the Life Safety Code, 2006 edition, is also incorporated herein and may be considered and applied by the fire chief to the extent necessary in the fire chief's sole discretion to implement and enforce the Life Safety Code.

(c) Chapters 12, 14, 16, 18, 20, 22, 28, 30, 32, 36, 38, and 43 of the Life Safety Code, 2006 edition, are specifically not adopted herein.

(~~b~~d) Facilities which are in service prior to the adoption of the ~~1994~~2006 edition of the Life Safety Code and not in strict conformity therewith may continue in service provided such facilities are not determined by the fire chief to constitute a distinct hazard to life or property.

31 Section 2. That section 70-122, Amendments, of The Code of the City of
32 Topeka, Kansas, is hereby repealed:

33 **Amendments.**

34 ~~Section 11-7.1.1.1 of the Life Safety Code, 1985 Edition, is hereby amended to~~
35 ~~read as follows:~~

36 ~~The requirements detailed in section 11-7, child day care centers (more than 12~~
37 ~~children), are based on the minimum staff-to-child ratios given below:~~

38 ~~Staff-to-child ratios for day care centers providing care for more than 12 children~~
39 ~~shall be in conformity with applicable state statutes and regulations.~~

40 Section 3. That section 70-123, Appeals, of The Code of the City of Topeka,
41 Kansas, is hereby amended to read as follows:

42 **Appeals.**

43 (a) The board of building and fire appeals as defined in the Code of the City of
44 Topeka 26-138 shall be empowered to hear and determine interpretations of the Life
45 Safety Code and to permit exceptions, or variances ~~or waivers~~ from the Life Safety
46 Code provisions in certain cases or situations, in accordance with the purposes and
47 intent of the code. An exception, or variance ~~or waiver~~ shall not be granted except in
48 those situations, as determined by the board, that will not endanger life or limb, health,
49 property or public welfare.

50 (b) An exception, or variance ~~or waiver~~ relating to the Life Safety Code may
51 be vetoed by the fire chief. Requests for exceptions, or variances ~~or waivers~~ which have
52 been denied and matters vetoed may be appealed to the council by filing within ten
53 days of the effective date of the denial or veto, in writing, with the city clerk, a request
54 for a hearing before the council. Within five days of the receipt of this request for a

hearing, the council shall give notice of a public hearing to be held in no less than five days nor more than ten days after service of the notice on the person requesting the hearing.

(c) A judgment rendered or final decision made by the council may be reversed, vacated or modified by the district court on appeal. It shall be sufficient for an aggrieved party to file a notice that such party is appealing from such judgment or decision with the council within 30 days of its entry, and then causing true copies of all pertinent proceedings before the council to be prepared and filed with the clerk of the district court in the county in which such judgment or decision was entered.

Section 4. That section 70-191, Definitions, of The Code of the City of Topeka, Kansas, is hereby repealed:

Definitions.

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

~~*Evacuation capability* means the capability of the group, residents and staff to evacuate the building or relocate from the point of occupancy to a point of safety. The evacuation capability shall be determined by the authority having jurisdiction. The following levels of evacuation capability are recognized by this division:~~

~~(1) *Prompt:* Evacuation capability equivalent to that normally accepted as the ability to relocate all of the endangered occupants to a point of safety within approximately three minutes from alarm or other alerting signal.~~

~~(2) *Moderate:* Groups that can successfully execute evacuation and relocate to a point of safety in approximately five minutes longer than that as~~

79 ~~defined as prompt evacuation.~~

80 ~~(3) — *Slow:* Groups that can successfully execute evacuation and~~
81 ~~relocate to a point of safety in approximately ten minutes longer than that defined~~
82 ~~as prompt evacuation.~~

83 ~~(4) — *Impractical:* Groups that cannot successfully execute evacuation~~
84 ~~and relocate to a point of safety within approximately ten minutes longer than that~~
85 ~~defined as prompt evacuation.~~

86 ~~*Personal care* means protective care with or without watchful oversight of a~~
87 ~~resident who does not have an illness or a condition which requires chronic or~~
88 ~~convalescent medical or nursing care with a 24-hour responsibility for the safety of the~~
89 ~~resident when in the building. Protective care with or without watchful oversight may~~
90 ~~include a daily awareness by the management of the resident's functioning, his~~
91 ~~whereabouts, the making and reminding a resident of appointments, supervision in~~
92 ~~areas of nutrition and medication, and actual provision of transient medical care.~~

93 ~~*Point of safety* means a location that meets one of the following:~~

94 ~~(1) — Is exterior and away from the building.~~

95 ~~(2) — Is within a building of any construction protected throughout by an~~
96 ~~approved automatic sprinkler system.~~

97 ~~(3) — Is within a portion of a type I-FR or II-FR building which is~~
98 ~~separated by smoke barriers of at least a 20-minute fire resistance rating.~~

99 ~~*Residential board and care occupancy* means a building or part thereof that is~~
100 ~~used for the lodging and boarding of six or more residents not related by blood or~~
101 ~~marriage to the owners or operators to provide personal care services, but not to~~
102 ~~provide nursing care. The following are examples of facilities that normally classify as~~

residential board and care occupancies:

(1) ~~A group housing arrangement for physically or mentally handicapped persons who normally work in the community, attend school, or otherwise use community facilities.~~

(2) ~~A group housing arrangement for physically or mentally handicapped persons who are undergoing training in preparation for independent living, for paid employment, or for other normal community activities.~~

(3) ~~A group housing arrangement for the elderly that provides personal care services but that does not provide nursing care.~~

(4) ~~Facilities for social rehabilitation, such as those used for the treatment of alcoholism, mental health problems, etc., that contain a group housing arrangement, and that provide personal care services but do not provide nursing care.~~

(5) ~~Other group housing arrangements that provide personal care services but not nursing care.~~

~~Two remote routes.~~ To meet the requirements for two remote routes, each bedroom shall have access to two routes leading to two separate building exit doorways. Exit doors shall be of the side hinge type.

Section 5. That section 70-192, Objective, of The Code of the City of Topeka, Kansas, is hereby repealed:

Objective.

~~The objective of the division is to provide a reasonable level of safety to individuals within residential board and care occupancies.~~

Section 6. That section 70-193, Certificate of compliance, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Certificate of compliance.

A certificate of compliance issued by the city from the fire department and the ~~environmental code services~~property code enforcement division shall be required for all small and large residential board and care occupancies.

Section 7. That section 70-194, Variances, of The Code of the City of Topeka, Kansas, is hereby repealed:

~~Variances.~~

~~The board of building and fire appeals will act as the authority to consider and waive any requests for variances from the terms of this division.~~

Section 8. That section 70-195, Small facilities, of The Code of the City of Topeka, Kansas, is hereby repealed:

~~Small facilities.~~

~~(a) This section applies to residential board and care occupancies providing sleeping accommodations for six through 15 residents. Where there are sleeping accommodations for 16 or more residents, the occupancy will be classed as a large facility.~~

~~(b) The requirements of this section are applicable to new construction and existing buildings.~~

~~(c) Small facilities shall comply with the requirements listed in table 1.~~

~~(d) The address of small facilities shall be visible from the street on contrasting background with numbers at least six inches in height.~~

~~TABLE 1. BASIC MINIMUM REQUIREMENTS~~

Small facilities: For one- and two-story structures

TABLE INSET:

		Prompt and Moderate	Slow and Impractical
(1)	Construction	Does not need to be rated	Limited to first floor of rated structure

TABLE INSET:

(2)	Means of emergency escape	Two remote routes to be required off of each level
(3)	Protection from hazardous areas	Any hazardous areas are protected as per appendix A
(4)	Interior finish	Currently adopted class A and B of Life Safety Code (6-5-1.5)
(5)	Smoke detection and alarm	6 to 7 residents: 110-volt single station smoke detectors wired together 8 to 15 residents: NFPA 72A
(6)	Outside window from each sleeping room	Outside window operable from the inside without the use of tools and providing a clear opening as to the UBC
(7)	Occupational requirements	All staff members and all residents required to participate in regular fire drills that familiarize all participants with emergency procedures
(8)	Emergency lighting	As required by jurisdictional authority
(9)	Housing maintenance	The housing maintenance and occupancy code shall be met
(10)	Food service	Food service requirements shall be met

Appendix A

A hazardous area is any space that contains storage having a fuel load with the potential for a fully involved fire. Examples of hazardous areas include, but are not limited to: (1) areas for cartoned storage, food or household; (2) maintenance items; or (3) storage areas of residents' belongings. If a hazardous area is on the same floor as, and is in or abuts, a primary egress route or a sleeping room, the hazardous area protection consists of: (1) an enclosure with a fire-resistive rating of at least one-hour

~~with a self-closing or smoke-operated automatic closing fire door having a fire protection rating of at least three-fourths hour or sprinkler protection of the hazardous area and a separation that will resist the passage of smoke between the hazardous area and the exposed sleeping area or primary exit route. Any doors in such separation are self-closing or automatic closing on smoke detection. The closing device is not required for hazardous spaces where the nature of the space is such that the door is kept closed at all times.~~

Section 9. That section 70-196, Large facilities, of The Code of the City of Topeka, Kansas, is hereby repealed:

~~Large facilities.~~

~~(a) — This section applies to residential board and care occupancies providing sleeping accommodations for 16 or more residents. Large facilities shall meet the requirements of the currently adopted Uniform Building Code. For prompt and moderate evacuation capability, R-1 standards shall apply. For slow and impractical evacuation capability, I-1 standards shall apply.~~

~~(b) — The requirements of this section are applicable to new construction or existing buildings.~~

~~(c) — Emergency lighting for large facilities shall be required in accordance with NFPA standards 70.~~

~~(d) — Smoke alarm systems as per NFPA standards (72A) shall be required in large facilities.~~

~~(e) — The address of large facilities shall be visible from the street on a contrasting background with numbers at least six inches in height.~~

187 Section 10. That section 70-197, Evacuation plan, of The Code of the City of
188 Topeka, Kansas, is hereby repealed:

189 **Evacuation plan.**

190 ~~The administration of every residential board and care facility shall have in effect~~
191 ~~and available to all supervisory personnel written copies of a plan for the protection of~~
192 ~~all persons in the event of fire and for their evacuation to areas of refuge and from the~~
193 ~~building when necessary. The plan shall include special staff actions including fire~~
194 ~~protection procedures needed to ensure the safety of any resident, and shall be~~
195 ~~amended or revised upon admission to the home of any resident with unusual needs.~~
196 ~~All employees shall be periodically instructed and kept informed respecting their duties~~
197 ~~and responsibilities under the plan. Such instruction shall be available at all times within~~
198 ~~the facility. The city fire department shall approve the fire protection procedures~~
199 ~~established by the facility. If the procedures are not satisfactory, in the opinion of the city~~
200 ~~fire department, the city fire department will establish a fire protection procedure for the~~
201 ~~facility.~~

202 Section 11. That section 70-198, Resident training, of The Code of the City of
203 Topeka, Kansas, is hereby repealed:

204 **Resident training.**

205 ~~All residents of residential board and care occupancies capable of assisting in~~
206 ~~their evacuation shall be trained in the proper actions to take in the event of a fire. This~~
207 ~~training shall include actions to take if the primary escape route is blocked. If the~~
208 ~~resident is given rehabilitation or habilitation training, training in fire prevention and~~
209 ~~actions to take in the event of a fire shall be a part of the rehabilitation training program.~~
210 ~~Residents shall be trained to assist each other in case of fire to the extent their physical~~

and mental abilities permit them to do this without additional personal risk.

Section 12. That section 70-199, Fire exit drills, of The Code of the City of Topeka, Kansas, is hereby repealed:

Fire exit drills.

~~In all residential board and care occupancies, fire exit drills shall be conducted at least six times per year. The drills may be announced to the residents. The drills shall involve the actual evacuation of all residents to a selected assembly point and shall provide residents with experience in exiting through all exits required by code. Exits not used in any fire drill shall not be credited in meeting the requirements of this Code for board and care homes. A record and timing of all such drills shall be required.~~

Section 13. That original § 70-121, § 70-123 and § 70-193 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 14. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the City Council April 28, 2009.

CITY OF TOPEKA, KANSAS

William W. Buntten, Mayor

ATTEST:

Brenda Younger, City Clerk