

(Published in the Topeka Metro News February 13, 2012)

ORDINANCE NO. 19697

AN ORDINANCE introduced by Daniel R. Stanley, Interim City Manager, concerning the adoption of the International Energy Conservation Code by creating Chapter 14.80 of the City of Topeka Code as well as amending TMC § 2.40.010 and specifically repealing said original section.

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

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a Chapter 14.80, International Energy Conservation Code.

Section 2. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 14.80.010, which said section reads as follows:

International Energy Conservation Code – Adopted.

The International Energy Conservation Code (IECC), 2009 edition, as published by the International Code Council and amended by this chapter, is hereby adopted as the Energy Conservation Code of the City of Topeka for the purpose of regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems. The IECC shall apply only to residential buildings as defined in TMC 14.80.060.

Section 3. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 14.80.020, which said section reads as follows:

International Energy Conservation Code – On file in clerk's office.

At least one copy of the International Energy Conservation Code, as amended, shall be on file with the city clerk to be available for inspection by the public at all reasonable business hours.

30 Section 4. That The Code of the City of Topeka, Kansas, is hereby amended
31 by adding a section, to be numbered 14.80.030, which said section reads as follows:

32 **Code official designated.**

33 Whenever the term “code official” is used in the IECC, it shall be construed to
34 mean the development services director or designee.

35 Section 5. That The Code of the City of Topeka, Kansas, is hereby amended
36 by adding a section, to be numbered 14.80.040, which said section reads as follows:

37 **Amendments; Generally.**

38 The amendments to the International Energy Conservation Code adopted herein
39 shall be set out in chapter 14.80. All references to section and chapter numbers shall
40 be construed as if followed by the words “of the International Energy Conservation
41 Code,” unless clearly indicated otherwise.

42 Section 6. That The Code of the City of Topeka, Kansas, is hereby amended
43 by adding a section, to be numbered 14.80.050, which said section reads as follows:

44 **Amendments to Chapter 1.**

45 101.2 Scope, is hereby deleted in its entirety and the following provisions shall be
46 substituted therefore:

47 This code applies to residential buildings as defined in TMC 14.80.060.

48 101.4.4 Change in occupancy or use, is hereby deleted in its entirety.

49 101.4.6 Mixed occupancy, is hereby deleted in its entirety.

50 101.5 Compliance, is hereby deleted in its entirety and the following provisions
51 shall be substituted therefore:

52 Residential buildings shall meet the provisions of Chapter 4.

53 101.5.2 Low energy buildings, is hereby deleted in its entirety and the following
54 provisions shall be substituted therefore:

55 The following buildings, or portions thereof, separated from the
56 remainder of the building by building thermal envelope assemblies
57 complying with this code shall be exempt from the building thermal
58 envelope provisions of this code:

59 1. Those with a peak design rate of energy usage less than 3.4
60 Btu/h-ft² (10.7 W/m²) or 1.0 watt/ft² (10.7 W/m²) of floor area for space
61 conditioning purposes.

62 2. Those that do not contain conditioned space.

63 3. Accessory structures that do not contain habitable space.

64 102.1.1 Above code programs, is hereby deleted in its entirety and the following
65 provisions shall be substituted therefore:

66 The code official or other authority having jurisdiction shall be
67 permitted to deem a national, state or local energy efficiency program to
68 exceed the energy efficiency required by this code. Buildings approved in
69 writing by such an energy efficiency program shall be considered in
70 compliance with this code.

71 103.1 General, is hereby deleted in its entirety and the following provisions shall
72 be substituted therefore:

73 The submittal of construction documents and plans is not required,
74 and a separate permit shall not be issued with regard to the construction
75 practices and techniques utilized in buildings that fall within the scope of

76 this code. Construction or work for which a building permit is required shall
77 be subject to the provisions of this code.

78 **Exception:** The code official is authorized to and may require the
79 submittal of any necessary construction documents and other supporting
80 data for specific projects where special or unusual conditions exist. The
81 code official may also require that the necessary construction documents
82 be prepared by a registered design professional.

83 103.3 Examination of documents, including subsections 103.3.1, 103.3.2 and
84 103.3.3, is hereby deleted in its entirety and the following provisions shall be substituted
85 therefore:

86 The code official shall examine or cause to be examined the
87 accompanying construction documents and shall ascertain whether the
88 construction indicated and described is in accordance with the
89 requirements of this code and other pertinent laws or ordinances. The
90 code official shall either approve the documents or note any items or
91 specifications that do not comply, and notify the responsible party with
92 results of the review.

93 103.4 Amended construction documents, is hereby deleted in its entirety.

94 103.5 Retention of construction documents, is hereby deleted in its entirety.

95 104.1 General, is hereby deleted in its entirety and the following provisions shall
96 be substituted therefore:

97 Construction or work regulated by this code shall be subject to
98 inspection by the code official.

99 104.8 Approval, including subsection 104.8.1, is hereby deleted in its entirety.

100 106.1 General, is hereby deleted in its entirety and the following provisions shall

101 be substituted therefore:

102 The codes and standards referenced in this code shall be those
103 listed in Chapter 6, and such codes and standards may be considered as
104 part of the requirements of this code to the prescribed extent of each such
105 reference.

106 Section 107, FEES, is hereby deleted in its entirety.

107 108.4 Failure to comply, is hereby deleted in its entirety and the following
108 provisions shall be substituted therefore:

109 It shall be unlawful for any person to continue to work after having
110 been served with a stop work order, except such work as that person is
111 directed to perform to remedy a violation or unsafe condition. Failure to
112 abide by this provision may result in penalties prescribed in TMC
113 1.10.070.

114 Section 109, BOARD OF APPEALS, is hereby deleted in its entirety and the
115 following provisions shall be substituted therefore:

116 Any appeal from a decision of the code official may be appealed to
117 the board of building and fire appeals pursuant to TMC 2.40.010.

118 Section 7. That The Code of the City of Topeka, Kansas, is hereby amended
119 by adding a section, to be numbered 14.80.060, which said section reads as follows:

120 **Amendments to Chapter 2.**

Section 202, GENERAL DEFINITIONS, "Residential Building" definition is hereby deleted and the following provisions shall be substituted therefore:

Buildings referenced within the scope of the currently adopted International Residential Code for One- and Two- Family Dwellings.

Section 8. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 14.80.070, which said section reads as follows:

Amendments to Chapter 3.

Section 301.1 General is hereby deleted in its entirety and the following provisions shall be substituted therefore:

Climate Zone 4A (Shawnee County), from Figure 301.1 or Table 301.1, shall be used in determining the applicable requirements in Chapter 4.

Section 302, DESIGN CONDITIONS, is hereby deleted in its entirety.

303.2 Installation, is hereby deleted in its entirety and the following provisions shall be substituted therefore:

All materials, systems and equipment shall be installed in accordance with the manufacturer's installation instructions and the currently adopted version of the International Residential Code.

303.3 Maintenance information, is hereby deleted in its entirety.

Section 9. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 14.80.080, which said section reads as follows:

Amendments to Chapter 4.

143 402.2.5 Steel-frame ceilings, walls and floors—EXCEPTION, is hereby deleted in
144 its entirety.

145 402.2.7 Basement walls, is hereby deleted in its entirety and the following
146 provisions shall be substituted therefore:

147 Conditioned spaces in finished basement areas shall be insulated
148 from the top of the basement wall down to 10 feet (3048 mm) below grade
149 or to the basement floor, whichever is less.

150 402.2.8 Slab-on-grade floors, is hereby deleted in its entirety and the following
151 provisions shall be substituted therefore:

152 Slab-on-grade floors with a floor surface less than 12 inches (305
153 mm) below grade shall be insulated in accordance with Table 402.1.1.
154 The insulation shall extend downward from the top of the slab on the
155 outside or inside of the foundation wall. Insulation located below grade
156 shall be extended the distance provided in Table 402.1.1 by any
157 combination of vertical insulation, insulation extending under the slab or
158 insulation extending out from the building. Insulation extending away from
159 the building shall be protected by pavement or by a minimum of 10 inches
160 (254 mm) of soil. The top edge of the insulation installed between the
161 exterior wall and the edge of the interior slab shall be permitted to be cut
162 at a 45-degree (0.79 rad) angle away from the exterior wall. Slab-edge
163 insulation is not required in jurisdictions designated by the code official as
164 having a heavy termite infestation.

165 402.2.9 Crawl space walls, is hereby deleted in its entirety and the following
166 provisions shall be substituted therefore:

167 As an alternative to insulating floors over crawl spaces, crawl space
168 walls shall be permitted to be insulated when the crawl space is not
169 vented to the outside. Crawl space wall insulation shall be permanently
170 fastened to the wall and extend downward from the floor to within 9 inches
171 of the finished interior grade adjacent to the foundation wall. A 3-inch
172 inspection gap immediately below the floor joists shall be provided to
173 permit inspections for termites. Exposed earth in unvented crawl space
174 foundations shall be covered with a continuous Class I vapor retarder in
175 accordance with the International Residential Code. All joints of the vapor
176 retarder shall overlap by 6 inches and be sealed or taped. The edges of
177 the vapor retarder shall extend at least 6 inches up the stem wall and shall
178 be attached to the stem wall.

179 402.3.2 Glazed fenestration SHGC, is hereby deleted in its entirety.

180 402.3.3 Glazed fenestration exemption, is hereby deleted in its entirety.

181 402.3.5 Thermally isolated sunroom U-factor, is hereby deleted in its entirety and
182 the following provisions shall be substituted therefore:

183 The maximum fenestration U-factor shall be 0.50 and the maximum
184 skylight U-factor shall be 0.75. New windows and doors separating the
185 sunroom from conditioned space shall meet the building thermal envelope
186 requirements.

187 402.3.6 Replacement fenestration, is hereby deleted in its entirety and the
188 following provisions shall be substituted therefore:

189 Where some or all of an existing fenestration unit is replaced with a
190 new fenestration product, including sash and glazing, the replacement
191 fenestration unit shall meet the applicable requirements for U-factor in
192 Table 402.1.1.

193 402.4.3 Fireplaces, is hereby deleted in its entirety and the following provisions
194 shall be substituted therefore:

195 New wood-burning factory-built fireplaces shall have gasketed
196 doors and outdoor combustion air. New wood-burning masonry fireplaces
197 shall have outdoor combustion air. Ducts for combustion air supply shall
198 be installed according to the terms of their listing, the manufacturer's
199 instructions, and the currently adopted edition of the Uniform Mechanical
200 Code.

201 402.5 Maximum fenestration U-factor and SHGC (Mandatory), is hereby deleted
202 in its entirety and the following provisions shall be substituted therefore:

203 The area-weighted average maximum fenestration U-factor
204 permitted using trade-offs from Section 402.1.4 or 405 shall be 0.48 for
205 vertical fenestration and 0.75 for skylights.

206 403.1.2 Heat pump supplementary heat (Mandatory), is hereby deleted in its
207 entirety.

208 403.2.1 Insulation (Prescriptive), is hereby deleted in its entirety and the following
209 provisions shall be substituted therefore:

Supply ducts in attics shall be insulated to a minimum of R-8. All other ducts shall be insulated to a minimum of R-6.

Exception: Ducts or portions thereof located completely inside a conditioned space.

403.2.2 Sealing (Mandatory), is hereby deleted in its entirety and the following provisions shall be substituted therefore:

All ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed when not located in conditioned space. Joints and seams shall comply with the currently adopted version of the Uniform Mechanical Code. Duct tightness shall be verified by visual inspection or either of the following:

1. Postconstruction test: Leakage to outdoors shall be less than or equal to 8 cfm (226.5 L/min) per 100 ft² (9.29 m²) of conditioned floor area or a total leakage less than or equal to 12 cfm (12L/min) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.

2. Rough-in test: Total leakage shall be less than or equal to 6 cfm (169.9 L/min) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air

handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 ft² (9.29 m²) of conditioned floor area.

Exceptions: Duct tightness test is not required if the air handler and all ducts are located within conditioned space.

403.3 Mechanical system piping insulation (Mandatory), is hereby deleted in its entirety and the following provisions shall be substituted therefore:

Mechanical system piping capable of carrying fluids above 105°F (41°C) or below 55°F (13°C) shall be insulated to a minimum of R-3.

Exception: Refrigerant liquid lines.

403.4 Circulating hot water systems (Mandatory), is hereby deleted and the following provisions shall be substituted therefore:

All circulating service hot water piping shall be insulated to at least R-2 when located outside of conditioned space. Circulating hot water systems shall include an automatic or readily accessible manual switch that can turn off the hot water circulating pump when the system is not in use.

403.6 Equipment sizing (Mandatory), is hereby deleted in its entirety and the following provisions shall be substituted therefore:

Heating and cooling equipment shall be sized in accordance with the currently adopted version of the Uniform Mechanical Code.

403.7 Systems serving multiple dwelling units (Mandatory), is hereby deleted in its entirety.

256 Section 10. That The Code of the City of Topeka, Kansas, is hereby amended
257 by adding a section, to be numbered 14.80.090, which said section reads as follows:

258 **Amendments to Chapter 5.**

259 CHAPTER 5, COMMERCIAL ENERGY EFFICIENCY, is hereby deleted in its
260 entirety.

261 Section 11. That section 2.40.010, Board of building and fire appeals, of The
262 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

263 **Board of building and fire appeals.**

264 (a) There is hereby created a board of building and fire appeals consisting of
265 seven members appointed by the mayor and confirmed by the council. The members of
266 the board shall be currently licensed or engaged in or have substantial past experience
267 in the following fields or professions: licensed professional engineer, licensed architect,
268 licensed commercial contractor, or other experienced professional working in a field
269 related to building construction. The board shall always consist of at least two
270 engineers, two architects, and one contractor. Members shall serve a two-year term.
271 Members shall not serve beyond the end of their appointed terms. Upon expiration of a
272 term the position shall remain vacant until a successor is appointed. The city attorney,
273 city fire chief and development services director or their designees shall serve as
274 nonvoting ex officio members of the board. The development services director or his or
275 her designee shall serve also as secretary of the board. Copies of current adopted
276 codes will be made available to board members.

277 (b) The board of building and fire appeals shall adopt reasonable rules and
278 regulations for conducting its investigations and shall render all decisions and findings in

279 writing to the development services director and the fire chief with a duplicate copy to
280 the appellant.

281 (c) The board of building and fire appeals shall determine the suitability of
282 alternate materials, methods and type of construction and provide for reasonable
283 interpretations of the provisions of the commercial and residential building codes,
284 building conservation code, the fire code, energy conservation code and life safety
285 code, as adopted by the council. The board shall be empowered to hear and determine
286 interpretations of the codes and to permit variances from the code provisions in certain
287 cases or situations in accordance with the purposes and intents of the code. A variance
288 shall not be granted except in those situations, as determined by the board, that will not
289 endanger life or limb, health, property or public welfare. Where a variance is sought with
290 respect to a structure registered, or eligible for registration, with either the National
291 Register of Historic Places or the Register of Historic Kansas Places, or listed with the
292 Kansas State Inventory of Historical Sites, the board shall specifically consider the
293 structure's historic significance in reaching its decision, exerting an affirmative effort to
294 preserve the structure's quality in effecting any necessary changes. Pursuant to this
295 goal, the board shall request the opinion of the Director of the Historic Preservation
296 Department of the state Historical Society.

297 (d) An exception or variance relating to the commercial and residential
298 building codes, energy conservation code, and building conservation code may be
299 vetoed by the development services director. An exception or variance relating to the
300 fire code and life safety code may be vetoed by the fire chief. Requests for exceptions
301 or variances which have been denied and matters vetoed may be appealed to the

council by filing within 10 days of the effective date of the denial or veto, in writing, with the city clerk, a request 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 not less than five days nor more than 10 days after service of the notice on the person requesting the hearing.

(e) The board of building and fire appeals may request other boards and commissions of the city, including the electrical, mechanical or plumbing boards, to provide technical assistance and recommendations. In addition, the board of building and fire appeals shall require substantiating data or tests to determine the suitability and feasibility of allowing the variance requested by the applicant.

(f) The person requesting the variance relating to the commercial or residential building codes, energy conservation code, or the building conservation code adopted by the council shall at such person's expense conduct tests and have these tests verified showing that the variance requested will not endanger life or limb, health, property or public welfare. Such tests shall have been conducted before the hearing unless the board asks for additional testing pertaining to relevant circumstances that may affect the decision made by the board.

(g) A filing fee of \$100.00 shall be paid in advance by any party appealing to the board.

Section 12. That original § 2.40.010 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 13. This ordinance shall take effect and be in force on May 1, 2012, and after its passage, approval and publication in the official City newspaper.

Section 14. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 15. 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 Governing Body on February 7, 2012.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk