

(Published in the Topeka Metro News April 21, 2014)

ORDINANCE NO. 19899

AN ORDINANCE introduced by City Manager Jim Colson, concerning the adoption of the 2012 International Property Maintenance Code, repealing in their entireties § 6.35.060, § 8.60.180 through § 8.60.220, and Chapters 8.65, 8.70 and 8.75 of the Topeka Municipal Code, as well as amending § 2.25.250, § 8.60.010 through § 8.60.170, § 8.80.040, §8.80.050, § 14.35.050 and § 14.70.150 and specifically repealing said original sections.

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

Section 1. That section 2.25.250, Enforcing officer designated, Title, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Enforcing officer designated.**

~~Pursuant to the provisions of K.S.A. 12-1750 et seq. and the Dangerous Structures and Abandoned Property Act, as amended, t~~The city manager of the city hereby designates the ~~director of development services division~~police chief or designee as the enforcing officer and ~~charges the director of development services division with administration of the provisions of the Dangerous Structures and Abandoned Property Act as the same pertains to abandoned property only~~for purposes of administering the Unsafe or Dangerous Structures law, K.S.A. 12-1750 et seq.

Section 2. That section 8.60.010, Title, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**TitleInternational Property Maintenance Code – Adopted.**

~~These regulations shall be known as the property maintenance code of the city of Topeka.~~

The International Property Maintenance Code and Commentary, including all appendices, 2012 Edition, as published by the International Code Council and amended by this chapter (IPMC), is hereby adopted as the property maintenance code of the City of Topeka to address the public health, safety, and welfare relative to the use and maintenance of existing structures and premises.

Section 3. That section 8.60.020, Scope, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Scope~~**International Property Maintenance Code – On file in clerk’s office.**

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

At least one copy of the International Property Maintenance Code, as amended, shall be on file with the city clerk to be available for inspection by the public during business hours.

Section 4. That section 8.60.030, Findings, purpose and intent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Findings, purpose and intent~~**Code official designated.**

~~(a) This division shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare.~~

~~(b) 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, 12-1617f, and 12-1617g, it is the purpose and intent of the city council to define and proscribe those conditions which are injurious to the~~

50 public and which constitute a public nuisance. It is further the purpose and intent of the  
51 council, pursuant to K.S.A. 12-1617e and 12-1617g, to set forth and delegate  
52 responsibility to the chief of police for procedures regarding notice, abatement and  
53 prosecution of those individuals who allow property maintenance violations to exist.

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

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

69 Whenever the term "code official" is used in the IPMC, it shall be construed to  
70 mean the chief of police or designee.

71 Section 5. That section 8.60.040, Severability, of The Code of the City of  
72 Topeka, Kansas, is hereby amended to read as follows:

73                   **Severability Amendments – Generally.**

74                   ~~If a section, subsection, sentence, clause or phrase of this division is, for any~~  
75 ~~reason, held to be unconstitutional, such decision shall not affect the validity of the~~  
76 ~~remaining portions of this division.~~The amendments to the International Property  
77 Maintenance Code adopted herein shall be set out in this chapter. All references to  
78 section and chapter numbers shall be construed as if followed by the words “of the  
79 International Property Maintenance Code,” unless clearly indicated otherwise.

80                   Section 6.     That section 8.60.050, Definitions, of The Code of the City of  
81 Topeka, Kansas, is hereby amended to read as follows:

82                   **DefinitionsSection 102 Applicability.**

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

86                   ~~Meaning of Certain Words. Whenever the words “dwelling,” “dwelling unit,” “rooming~~  
87 ~~house,” “rooming units,” “premises” or “structures” are used in this division, they shall be~~  
88 ~~construed as though they were followed by the words “or any part thereof.”~~

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

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

94                   ~~“Appropriate authority” means the department, division or person who has the~~  
95 ~~responsibility to administer and enforce the applicable code.~~

96 ~~“Approved” means approved by the local or state authority having such administrative~~  
97 ~~authority.~~

98 ~~“Basement” means the lower level of a building located substantially below grade.~~

99 ~~“Calendar year” as used herein means that period of time beginning January 1st and~~  
100 ~~ending December 31st of the same year.~~

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

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

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

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

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

116 ~~“Egress” means a place or means of going out.~~

117 ~~“Extermination” means the control and elimination of insects, rodents and/or rats by~~  
118 ~~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)” means a water flushed plumbing fixture designed to receive human waste. This fixture shall have a means of delivering a minimum of 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 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 are not considered habitable spaces.

“Heated water” means water capable of being heated to a temperature of not less than 120 degrees 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 police department.~~

~~“Kitchen” means any room containing any or all of the following equipment, or any area of a room within three feet of such equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator for cool storage of food (between 32 degrees and 45 degrees 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.~~

162 ~~“Nonresidential structures” means any structure or any part thereof, which is used for~~  
163 ~~other than residential purposes, and where applicable, the premises on which such~~  
164 ~~structures are situated.~~

165 ~~“Notice” means a written statement issued by the chief of police declaring a condition to~~  
166 ~~be substandard.~~

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

174 ~~“Occupancy” means the purpose for which a building or portion thereof is utilized or~~  
175 ~~occupied.~~

176 ~~“Occupant” means any person over one year of age, living, sleeping, cooking or eating~~  
177 ~~in, or actually having possession of, a dwelling unit or a rooming unit, except that in~~  
178 ~~dwelling units a guest will not be considered an occupant.~~

179 ~~“Owner” means any person who, alone or jointly or severally with others, shall have:~~

180 ~~(1) Legal title to any premises, dwelling or dwelling unit, with or without~~  
181 ~~accompanying actual possession thereof; or~~

182 ~~(2) Charge, care or control of any premises, dwelling or dwelling unit, as~~  
183 ~~owner or agent of the owner, or as executor, administrator, purchaser under~~  
184 ~~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 nondwelling 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 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 Chapter 18.55 TMC.~~

~~“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 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 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 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.~~

Section 102.3 is deleted in its entirety and the following provisions are substituted  
therefore:

Repairs, additions or alterations to a structure, or changes of occupancy, shall be  
done in accordance with the building code in Chapter 14.20 TMC, the  
international energy conservation code in Chapter 14.80 TMC, the international  
fire code in Chapter 14.40 TMC, the mechanical code in Chapter 14.50 TMC, the  
international residential code in Chapter 14.55 TMC, and the plumbing code in  
Chapter 14.35 TMC.

Section 7. That section 8.60.060, Authority to enforce, of The Code of the City  
of Topeka, Kansas, is hereby amended to read as follows:

~~Authority to enforce~~ **Section 103 Department of Property Maintenance**  
**Inspection.**

~~The chief of police and/or his or her designee, hereinafter referred to as the chief~~  
~~of police, shall be charged with the administration and enforcement of this division.~~

Sections 103 is deleted in its entirety.

Section 8. That section 8.60.070, Authorization to enter premises, of The  
Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Authorization to enter premises~~ **Section 106 Violations; Abatements; Fees.**

~~To the extent authorized by law, the chief of police may enter on such premises~~  
~~at reasonable times to make inspections and to determine whether a violation exists. If~~  
~~upon investigation the chief of police determines that a violation exists, proper notice as~~  
~~provided in this division shall be given to the owner and occupant, if applicable, of the~~

premises on which the violation is located. The chief of police shall proceed to cause the violation to be corrected, abated or suppressed.

Section 106.3, Prosecution of violation, is deleted in its entirety and the following provision shall be substituted therefore:

A person who fails to comply with a notice of violation served in accordance with Section 107, shall be guilty of a misdemeanor and, if convicted, may be punished in accordance with TMC 1.10.070. A violation of this chapter shall be deemed a strict liability offense. Abatement of a violation by the code official shall not be a defense or excuse to a violation. The pendency of an administrative hearing pursuant to section 8.60.110 shall not be a defense to a violation or prevent prosecution and adjudication in municipal court.

Section 106.4, Violation penalties, is deleted in its entirety and the following provisions shall be substituted therefore:

Administrative penalties.

(a) There shall be an administrative monetary penalty of \$100.00 imposed on the owner or, in the case of inoperative vehicles, the vehicle owner for each violation 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 this chapter that remains uncorrected after the time period stated in the notice of violation has elapsed for the same property within 12 months of the same or substantially same violation shall be \$200.00.

299           Section 106.5. Abatement of violations, is deleted in its entirety and the following  
300           provisions shall be substituted therefore:

301           (a)     Abatement. Upon the expiration of the compliance period stated in  
302           the notice of violation, the code official shall inspect the property. The code  
303           official may grant an extension of time if the owner demonstrates that due  
304           diligence is being exercised in abating the violation. If the owner has failed to  
305           comply within the compliance period, has failed to timely request an appeal  
306           hearing or, in the case of an unsafe structure, failed to appear at a hearing, the  
307           code official may abate the violation and assess the costs against the owner. If  
308           the costs are not paid within 30 days, the cost can be collected pursuant to  
309           K.S.A. 12-1,115 and amendments thereto and/or charged against the property  
310           pursuant to K.S.A. 12-1617e, K.S.A. 12-1617f, K.S.A. 12-1755, or K.S.A. 17-  
311           4759 and amendments thereto.

312           (b)     Fees. The costs incurred by the city for abatement, including any  
313           administrative costs, shall be paid by the owner or, in the case of inoperative  
314           vehicles, the vehicle owner. The administrative costs shall be:

315                     General violations of the IPMC     \$140.00

316                     Weeds and grasses                     \$140.00

317                     Inoperative vehicles                 \$175.00

318           Section 9.     That section 8.60.080, Emergency measures – Notices of less than  
319           five days, of The Code of the City of Topeka, Kansas, is hereby amended to read as  
320           follows:

~~Emergency measures — Notices of less than five days~~Section 107 Notices  
and Orders.

~~Whenever in the judgment of the chief of police 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 chief of police 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 chief of police may act to correct or abate the emergency.~~

Section 107.2, Form, is deleted in its entirety and the following provisions shall be substituted therefore:

The notice prescribed in Section 107.1 shall include the following:

1. Description of the real estate sufficient for identification.
2. A statement that includes a description of the conditions and identifies violations of Chapter 8.60.
3. A statement of the correction action necessary and a reasonable time to complete the action. A reasonable time shall not exceed 60 calendar days.
4. A statement that if the violation(s) is not corrected within the compliance period, the city may impose administrative penalties, abate the violation, and assess the costs against the owner.

343           5. A statement advising that any owner may request an appeal  
344           hearing before an administrative hearing officer. The request shall be submitted  
345           to the code official within 10 calendar days from the date of service. Failure to  
346           timely request a hearing will allow the city to impose administrative penalties,  
347           abate the violation, and assess the costs against the owner. The scope of the  
348           appeal shall be limited to the following: (i) whether the provisions of Chapter 8.60  
349           apply; (ii) whether the code official has correctly interpreted Chapter 8.60; and/or  
350           (iii) whether the requirements of Chapter 8.60 can be adequately satisfied by  
351           other means.

352           6. A statement advising that failure to timely comply with the notice  
353           may result in prosecution in municipal court regardless whether an administrative  
354           hearing is pending.

355           7. If code official has determined that the structure is unsafe pursuant  
356           to Section 108, the notice shall state that a hearing will be held before the  
357           administrative hearing officer not less than 10 calendar days nor more than 30  
358           calendar days after service of the notice.

359           Section 107.3, Method of Service, is deleted in its entirety and the following  
360           provisions shall be substituted therefore:

361           (a) Method of Service. Notice shall be served in one of the following  
362           manners:

363           1. Personal service.

364           2. Certified mail, return receipt requested. Service shall be effective  
365           on the date of receipt.



3. If the property is unoccupied and the owner is a nonresident, certified mail, return receipt requested, to the last known address.

4. If the location of a person is unknown or if no address is available after diligent effort, then a copy of the notice shall be posted in a conspicuous place on the premises and published once in the official city newspaper. The failure of any such person to receive notice shall not affect the validity of any proceedings.

5. If the code official has determined that a structure is unsafe pursuant to Section 108 and the whereabouts of the owner are unknown and cannot be ascertained in the exercise of reasonable diligence, the code official may effect service by publishing the notice once each week for two consecutive weeks in the official city newspaper. A copy of the notice shall also be posted in a conspicuous place on the premises and a copy of the notice shall be filed with the register of deeds and the clerk of the district court of Shawnee County.

6. In addition to the methods identified in this section, the code official may provide notice by other methods, including, but not limited to, door hangers, conspicuously posting notice on the property, personal notification, telephone or email communication, or first class mail.

7. As authorized by K.S.A. 12-1617f, the code official may provide a one-time yearly written notice by mail or personal service to the owner or occupant which will permit subsequent abatement mowings without any

388 additional notice. The notice shall also include a statement that no further  
389 notice shall be given prior to cutting or removing weeds.

390 (b) Service of Notice The notice shall be served upon the owner of record,  
391 and one copy shall be served on each of the following, if known or available from  
392 public records: (1) the holder of any mortgage, deed of trust, lien, or  
393 encumbrance; and (2) the holder of any other estate or legal interest of record.  
394 The failure of the code official to serve any person shall not invalidate any  
395 proceedings hereunder as to any other person duly served or relieve such  
396 person from any duty or obligation. If the code official has determined that a  
397 structure is unsafe pursuant to Section 108, the notice shall also be served on  
398 any occupant who can be ascertained.

399 (c) Proof of Service. Proof of service of the notice shall be certified at the time  
400 of service by a written declaration under penalty of perjury executed by the  
401 person effecting service, declaring the time, date and manner in which service  
402 was made. The declaration, together with any receipt card returned in  
403 acknowledgment of receipt by certified mail, shall be affixed to the copy of the  
404 notice retained by the code official.

405 Section 10. That section 8.60.090, Conference to discuss complaint, of The  
406 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

407 **Conference to discuss complaintSection 109 Emergency measures.**

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

Section 109.5, Costs of emergency repair, is deleted in its entirety.

Section 109.6, Hearing, is deleted in its entirety.

Section 11. That section 8.60.100, Nuisance violation, contents, manner of service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Nuisance violation, contents, manner of service~~ **Section 110 Demolition.**

~~Notice of a nuisance violation of the provisions contained in Chapter 8.65 TMC shall comply with all the notice and service requirements contained in K.S.A. 12-1617e, and any amendments thereto.~~

Section 110.1, General, is hereby deleted in its entirety and the following provision shall be substituted therefore:

The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner 's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the code official.

In this section, “unreasonable to repair” means that the repair costs exceed 30% of the replacement value of the structure as established by the Shawnee County Appraiser.

Section 12. That section 8.60.110, Nuisance violation, weeds/grasses, contents, manner of service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Nuisance violation, weeds/grasses, contents, manner of service~~Section 111  
Hearing.

~~(a) Notice of a nuisance violation of the provisions contained in Chapter 8.65 TMC 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.~~

~~(b) As authorized by K.S.A. 12-1617f, the chief of police is specifically authorized to provide a minimum one-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.~~

Sections 111.1 through 111.8 are deleted in their entirety and the following provisions shall be substituted therefore:

Section 111.1 Administrative Appeal Hearing

(a) An owner shall have the right to appeal the notice of violation to an administrative hearing officer provided that a written application is submitted to the code official within 10 calendar days from the date of service.

455           (b)    An application for an appeal hearing shall be based on a claim that  
456           (i) the provisions of Chapter 8.60 do not apply; (ii) the code official has incorrectly  
457           interpreted Chapter 8.60; and/or (iii) the requirements of Chapter 8.60 can be  
458           adequately satisfied by other means. The owner may not appeal a requirement  
459           imposed by Chapter 8.60. The intent of the appeal process is not to waive or  
460           set aside a requirement; it is to provide a means of reviewing a code official's  
461           decision on an interpretation or application of Chapter 8.60 or reviewing a code  
462           official's decision to approve or reject the equivalency of protection to a Chapter  
463           8.60 requirement.

464           (c)    The administrative hearing officer shall schedule a hearing within  
465           three working days of receipt of the hearing request. Written notice of the hearing  
466           date and time shall be provided to the person requesting the hearing by first  
467           class mail. The hearing officer may continue the hearing to a later time.

468           (d)    The administrative hearing officer shall review the notice of violation  
469           and all relevant information. If the hearing officer determines that: (i) the  
470           provisions of Chapter 8.60 apply; (ii) the code official has correctly interpreted  
471           Chapter 8.60; and/or (iii) the requirements of Chapter 8.60 cannot be adequately  
472           satisfied by other means, the hearing officer shall order abatement of the  
473           violation, impose an administrative penalty, and assess the abatement costs  
474           against the owner.

475           Section 111.2 Administrative Hearing; Unsafe Structure.

476           (a)    After notice and hearing, if the administrative hearing officer  
477           determines that a structure is unsafe pursuant to Section 108, the administrative

478 hearing officer shall state in writing the findings of facts in support of such  
479 determination and shall issue and cause to be served upon the owner an order:  
480 (1) to demolish and remove the structure within a prescribed period; or (2) if the  
481 structure is capable of being made safe by repairs, to repair and make safe and  
482 sanitary within a prescribed period.

483 (b) The administrative hearing officer may grant an extension of time  
484 where the administrative hearing officer finds that there is practical difficulty or  
485 undue hardship and that such extension is in harmony with the general purpose  
486 of this chapter to secure compliance with the IPMC.

487 Section 13. That section 8.60.120, Nuisance violations, inoperative vehicles,  
488 contents, and manner of service, of The Code of the City of Topeka, Kansas, is hereby  
489 amended to read as follows:

490 ~~Nuisance violations, inoperative vehicles, contents, and manner of~~  
491 ~~service~~**Section 112 Stop Work Order.**

492 ~~Notice of a nuisance violation of the provisions contained in Chapter 8.65 TMC,~~  
493 ~~specifically relating to inoperative vehicles, shall comply with all the notice and service~~  
494 ~~requirements contained in K.S.A. 8-1102 and 12-1617e, and all amendments thereto.~~

495 Section 112.4, Failure to comply, is deleted in its entirety and the following  
496 provision shall be substituted therefore:

497 It is unlawful to continue any work after being served with a stop work order,  
498 unless the work is to remove a violation or abate an unsafe condition. The  
499 person may be punished in accordance with TMC 1.10.070.

Section 14. That section 8.60.130, Property maintenance violations, contents and manner of service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Property maintenance violations, contents and manner of service~~Section  
202 General Definitions.

~~Notice of a violation of the provisions contained in Chapter 8.70 TMC, Standards,~~  
~~specifically relating to property maintenance violations, shall contain the following:~~

~~(a) Content of Notice.~~

~~(1) The street address and a legal description sufficient for identification of the premises upon which the structure is located.~~

~~(2) A statement that the chief of police 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.~~

~~(3) A statement of the corrective action required to be taken as determined by the chief of police and reasonable time not to exceed 60 days from the date of service or publication for corrective action to be completed. One extension of time not to exceed 60 days to complete corrective action may be granted by the administrative hearing officer or the chief of police 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 chief of police.~~

~~(4) Statement advising that if any required repair work (not including vacation of the building or structure) is not completed within the time specified, the chief of police may order the structure vacated and posted to prevent further occupancy until the work is completed. If the chief of police 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 chief of police 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.~~

~~(5) 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.~~

~~(6) Statements advising (i) that any person having any record, title or legal interest in the building may appeal from the notice or any action of the chief of police to the administrative hearing officer. The appeal request made shall be to the chief of police within 10 calendar days from the date of service of such notice and order, and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.~~



~~(7) 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.~~

~~(8) Information on the availability of housing programs that assist owners in the rehabilitation of property.~~

~~(b) Service of Notice. The notice and any amended or supplement notice shall be served upon the owner of record, and one 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 chief of police 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.~~

~~(c) 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.

~~(d) 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 chief of police.~~

The definition of "Rubbish" as set forth in Section 202 is deleted in its entirety and the following provision shall be substituted therefore:

Combustible and noncombustible waste materials, except garbage. The term shall include but not be limited to: trash, junk, metal objects, plumbing fixtures, appliances, auto parts, tires, fencing, lumber, discarded or broken furniture, clothing, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, glass, crockery or the accumulation of any other similar materials.

Section 15. That section 8.60.140, Notices applicable to future owners, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Notices applicable to future owners~~ **Section 302 Exterior Property Areas.**

~~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.~~

Section 302.4, Weeds, is deleted in its entirety and the following provision shall be substituted therefore:

589 Weeds. All premises and exterior property shall be maintained free from weeds  
590 or plant growth in excess of twelve inches in height. All noxious weeds shall be  
591 prohibited. Weeds shall be defined as all grasses, annual plants and vegetation,  
592 other than trees or shrubs provided; however this term shall not include cultivated  
593 flowers and gardens. Upon failure of the owner or agent having charge of the  
594 property to comply with this section after service of a notice of violation, the  
595 person may be subject to prosecution in accordance with Section 106.3. Upon  
596 failure to comply with the notice, the city or its contractor may enter upon the  
597 property to remove or destroy the weeds and/or vegetation and assess the costs  
598 against the owner.

599 Section 16. That section 8.60.150, Placarding and order to vacate, of The Code  
600 of the City of Topeka, Kansas, is hereby amended to read as follows:

601 **~~Placarding and order to vacate~~Section 304 Exterior Structure.**

602 ~~(a) After notice and hearing as provided by this section, the administrative~~  
603 ~~hearing officer shall issue an administrative placard order which shall be served in~~  
604 ~~accordance with the applicable state statute. If the administrative hearing officer~~  
605 ~~determines that a dwelling, dwelling unit or rooming unit is unfit for human habitation,~~  
606 ~~the chief of police shall placard the dwelling, dwelling unit or rooming unit, indicating that~~  
607 ~~it is unfit for human habitation, and, if occupied, shall order the dwelling, dwelling unit or~~  
608 ~~rooming unit vacated within a reasonable time, such time to be not less than three days~~  
609 ~~nor more than 30 days.~~

(b) ~~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~~

(c) ~~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.~~

(d) ~~The chief of police 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.~~

Section 304.14, Insect screens, is deleted in its entirety and the following provision shall be substituted therefore:

Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where

products to be included or utilized in food for human consumption are processed,  
manufactured, packaged or stored shall be supplied with approved tightly fitting  
screens of minimum 16 mesh per inch (16 mesh per 25 mm).

Section 17. That section 8.60.160, Designation of hearing officer – Procedures,  
penalty for failure to comply with administrative order, of The Code of the City of  
Topeka, Kansas, is hereby amended to read as follows:

~~Designation of hearing officer – Procedures, penalty for failure to comply~~  
~~with administrative order~~Section 308 Rubbish and Garbage.

~~(a) For purposes of this chapter, 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 division.~~

~~(b) 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 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 chief of police~~  
~~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.~~

~~(c) 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.~~

~~(d) 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 chief of police may cause such person to be prosecuted in municipal court for violations of this division.~~

~~(e) The administrative hearing officer shall provide the option of daytime or telephone administrative hearing times.~~

~~(f) The administrative hearing officer may grant variances from the provisions of this division or from applicable rules and regulations issued by the chief of police when not inconsistent with the intent of this division.~~

~~Section 308.2, Disposal of rubbish, is deleted in its entirety and the following provision shall be substituted therefore:~~

~~Every occupant of a structure shall dispose of rubbish in accordance with TMC 8.25.010.~~

~~Section 308.2.1, Rubbish storage facilities is deleted in its entirety.~~

~~Section 308.3, Disposal of garbage, is deleted in its entirety and the following provision shall be substituted therefore:~~

Every occupant of a structure shall dispose of garbage in accordance with TMC

8.25.010.

Section 308.3.1, Garbage facilities, is deleted in its entirety.

Section 308.3.2, Containers, is deleted in its entirety.

Section 18. That section 8.60.170, Criteria for granting variances, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Criteria for granting variances~~Section 309 Pest Elimination.

~~The administrative hearing officer may grant variances from the provisions of this division or from applicable rules and regulations issued by the chief of police when the administrative hearing officer finds that:~~

~~(a) 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;~~

~~(b) Strict adherence to such provisions would be arbitrary in the case at hand;~~

~~(c) Extension of time to comply would not provide an appropriate remedy in the case at hand; and~~

~~(d) Such variance is in harmony with the general purpose of this division to secure the public health, safety and welfare.~~

Section 309.3, Single occupant, is deleted in its entirety and the following provision shall be substituted therefore:

The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises after 30 days of occupancy.

Section 309.4, Multiple occupancy, is deleted in its entirety and the following provision shall be substituted therefore:

The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property.

Section 19. That section 8.60.180, Administrative penalties, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Administrative penalties****Section 602 Heating Facilities.**

~~(a) Nuisance Violation.~~

~~(1) There shall be an administrative monetary penalty of \$100.00 imposed on the property owner or, in the case of inoperative vehicles, the vehicle owner for each violation under Chapter 8.65 TMC, Nuisances, that remains uncorrected after the time period stated in the notice of violation has elapsed.~~

~~(2) The administrative monetary penalty for a second or subsequent violation for which an administrative penalty has been imposed under Chapter 8.65 TMC, Nuisances, that remains uncorrected after the time period stated in the notice of violation has elapsed for the same property within 12 months of the same or substantially same violation shall be \$200.00.~~

~~(b) Property Maintenance Standards Violation.~~



~~(1) There shall be an administrative monetary penalty of \$100.00 imposed on the owner for each violation under Chapter 8.70 TMC, Standards, that remains uncorrected after the time period stated in the notice of violation has elapsed.~~

~~(2) The administrative monetary penalty for a second or subsequent violation under Chapter 8.70 TMC, Standards, for the same property within 12 months of the same or substantially same violation for which an administrative penalty has been imposed shall be \$200.00.~~

Section 602.2, Residential occupancies, is deleted in its entirety and the following provision shall be substituted therefore:

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Section 602.3, Heat supply, is deleted in its entirety and the following provision shall be substituted therefore:

Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either express or implied, to furnish heat to the occupants shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall

not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

Section 602.4, Occupiable work spaces, is deleted in its entirety and the following provision shall be substituted therefore:

Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

Section 20. That section 8.60.190, Abatements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Abatements~~ **Section 605 Electrical Equipment.**

~~Upon the expiration of the voluntary compliance period stated in the notice of violation, the chief of police 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 chief of police may proceed to abate such violation. If abated, the chief of police shall prepare a statement of costs incurred in the abatement along with any applicable administrative fees. The abatement of a violation of this division~~

under the direction of the chief of police shall not be a defense or excuse to the owner of property not conforming to this chapter.

Section 605.2, Receptacles, is deleted in its entirety and the following provision shall be substituted therefore:

Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. All kitchen countertop receptacles and all bathroom receptacles are required to be a receptacle with a ground fault circuit interrupter. All receptacle outlets shall have the appropriate faceplate cover for that location.

Section 21. That section 8.60.200, Abatement costs, of The Code of the City of Topeka, Kansas, is hereby repealed.

**~~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 division. The administrative costs for the abatement by the city of the following classes of violations of this division shall be:~~

- ~~(a) General nuisances— \$140.00~~
- ~~(b) Weeds and grasses— \$140.00~~
- ~~(c) Inoperative vehicles— \$175.00~~

788           Section 22. That section 8.60.210, Assessment of costs, of The Code of the  
789 City of Topeka, Kansas, is hereby repealed.

790           ~~**Assessment of costs.**~~

791           ~~The chief of police shall give notice to the owner of the costs of abatement~~  
792 ~~specifically including the administrative costs in the form and manner specified in K.S.A.~~  
793 ~~12-1617e or 12-1617f, and any amendments thereto. If the costs of removal or~~  
794 ~~abatement remain unpaid after 30 days following service of notice, the city may assess~~  
795 ~~the costs against the property or pursue collection as provided in K.S.A. 12-1115, 12-~~  
796 ~~1617e, 12-1617f, and 12-1750 et seq., and any amendments thereto.~~

797           Section 23. That section 8.60.220, Criminal penalties, of The Code of the City  
798 of Topeka, Kansas, is hereby repealed.

799           ~~**Criminal penalties.**~~

800           ~~It shall be unlawful for any person to fail to correct or to otherwise permit the~~  
801 ~~existence of a violation of the provisions of this division. Any person found guilty of~~  
802 ~~violating any of the sections in this division shall be deemed guilty of a misdemeanor~~  
803 ~~and punished as provided under TMC 1.10.070.~~

804           Section 24. That section 6.35.060, Livestock as a nuisance, of The Code of the  
805 City of Topeka, Kansas, is hereby repealed.

806           ~~**Livestock as a nuisance.**~~

807           ~~Notwithstanding the provisions of this chapter, the keeping of livestock shall be~~  
808 ~~subject to the provisions of Chapter 8.65 TMC, concerning nuisances.~~

809           Section 25. That section 8.80.040, Procedure upon receipt of moneys –  
810 Investigation, of The Code of the City of Topeka, Kansas, is hereby amended to read as  
811 follows:

812           **Procedure upon receipt of moneys – Investigation.**

813           (a) Upon receipt of moneys as provided for by this chapter, the city treasurer  
814 shall immediately notify the ~~director of development services division~~police chief or  
815 designee of such receipt, and transmit all documentation received from the insurance  
816 company to the ~~director of development services division~~police chief or designee.

817           (b) Within 20 days of the receipt of the moneys as provided by this chapter,  
818 the ~~director of development services division~~police chief or designee shall determine,  
819 based upon investigation, whether the city shall instigate proceedings under the  
820 provisions of K.S.A. 12-1750 through 12-1756, as amended, and Chapter ~~8.758.60~~8.60  
821 TMC. For purposes of this chapter, ~~director of development services division~~police chief  
822 or designee shall be the enforcement official with responsibility for determining an  
823 immediate hazard, pursuant to K.S.A. 12-1750 et seq., and the administrator of the  
824 environmental code services program shall be the enforcement official with  
825 responsibility for enforcement of Chapter ~~8.758.60~~8.60 TMC.

826           (c) Prior to the expiration of the 20-day period established in this section, the  
827 enforcement official shall notify the city treasurer whether the city intends to initiate  
828 proceedings under K.S.A. 12-1750 through 12-1756, as amended, and Chapter  
829 ~~8.758.60~~8.60 TMC.

830           (d) If the enforcement official has determined that proceedings under K.S.A.  
831 12-1750 through 12-1756, as amended, or Chapter ~~8.758.60~~8.60 TMC shall be initiated, he

or she will do so immediately, but no later than 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the enforcement official that no proceedings shall be initiated under K.S.A. 12-1750 through 12-1756, as amended, or Chapter ~~8.75~~8.60 TMC, the city treasurer shall return all moneys received to the insured or insureds as identified in the communication from the insurance company. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

Section 26. That section 8.80.050, Removal of structure – Excess moneys, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Removal of structure – Excess moneys.**

(a) If the enforcement official has proceeded under the provisions of K.S.A. 12-1750 through 12-1756, as amended, or Chapter ~~8.75~~8.60 TMC, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(b) If the enforcement official, with regard to a building or other structure damaged by fire, explosion, or windstorm determines that it is necessary to act under K.S.A. 12-1756 or Chapter 8.60 TMC ~~8.75.010 et seq.~~, any proceeds received by the city treasurer under the authority granted in this chapter relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756 or Chapter 8.60 TMC ~~8.75.010 et seq.~~ Upon reimbursement from the insurance proceeds, the enforcement official shall immediately

effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under TMC 8.80.030, the enforcement official shall publish a new lien in an amount equal to such excess expenses incurred.

Section 27. That section 14.35.050, 101.11.5, Moved Buildings, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**101.11.5, Moved Buildings.**

101.11.5, Moved Buildings, is hereby deleted in its entirety and the following provisions shall be substituted therefor:

Plumbing systems that are part of buildings or structures moved into this jurisdiction shall comply with the provisions of ~~City of Topeka Code, Title 8, Health and Sanitation, 8.70 Standards, Article III, Interior Structure~~ Chapter 8.60 TMC and Section 103.5.5.2 of the 2012 Uniform Plumbing Code.

Section 28. That section 14.70.150, Application – Fee, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Application – Fee.**

(a) A person desiring a moving permit shall file an application with the development coordination office on a form provided by such office. Along with the application the applicant shall:

(1) Submit a written document from any affected utility stating whether it will be necessary to cut and move, raise or in any way interfere with any wires, cables or other aerial equipment of any public or municipally owned utility, and if so, the application shall state also the name of such public or municipally owned utility, and the

time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities.

(2) Submit a legal description of current and future locations of the structure.

(3) Submit a proposed map to be used in the moving of the structure.

(4) Submit the address of current and future locations of the structure.

(5) Submit the name of the moving company if applicable.

(6) Submit a fee for the moving permit in the amount of \$75.00.

(7) Submit proof of public liability insurance with limits of liability of not less than \$25,000 for bodily injury to any one person and \$50,000 for bodily injuries in any one accident to property in any one accident.

(8) Submit a schedule for moving of the structure as provided by the police department pursuant to TMC 14.70.030.

(b) If the structure is to be relocated within the city, the following additional requirements shall apply:

(1) Pay a relocation fee of \$125.00.

(2) Before the structure is removed, a footing and/or footing and foundation for the structure must be in place.

(3) Upon relocation of a one- or two-family dwelling, the structure must comply with the housing code, Chapter ~~8.70~~8.60 TMC.

(Inspections for compliance with such standards may require on-site testing at the applicant's expense.)

(c) Upon submission of all required information, payment of the applicable fee and approval by the city engineer and city forester, the development coordination office



shall issue the moving permit.

Section 29. That original § 8.60.010 through § 8.60.170, § 8.80.040, § 8.80.050, § 14.35.050 and § 14.70.150 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 30. That Chapter 8.65 of The Code of the City of Topeka, Kansas, is hereby repealed.

Section 31. That Chapter 8.70 of The Code of the City of Topeka, Kansas, is hereby repealed.

Section 32. That Chapter 8.75 of The Code of the City of Topeka, Kansas, is hereby repealed.

Section 33. This ordinance shall take effect and be in force on July 1, 2014, and after its passage, approval and publication in the official City newspaper.

Section 34. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 35. 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 April 15, 2014.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
Larry E. Wolgast, Mayor

ATTEST:

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