



City Council Committee Meeting Notice

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: (785) 368-3710
Fax: (785) 368-3958
www.topeka.org

Committee: Public Health & Safety
Meeting Date: May 17, 2023
Time: 11:00am
Location: 1st Floor Conference Room; Cyrus K. Holliday Building 620 SE Madison
(*virtual attendance option also available*)

Agenda:

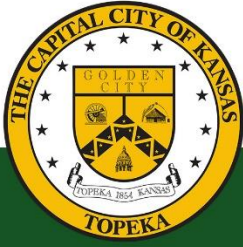
1. Call to Order
2. Elect 2023 Chair
3. Changing Our Culture of Property Maintenance
 - a. COCPM Work Plan - Introduction, Highlights
 - b. LLC Ordinance, Repeat Offenders - Report
 - c. Municipal Court - Updates/Report
 - d. Property Maintenance - Updates
 - e. Vegetation - Discuss, Consider Resolution of Intent, 2-year Community Strategy
 - f. Retaliatory Eviction Ordinance - Introduce, in process
 - g. Mowing Initiative - Update
 - h. Vacant Properties - Identify Issues; Set Summer Review
4. Other Reports
5. Schedule Upcoming Meetings
6. Adjourn

STAFF REQUESTED: Hannah Uhlrig, City Attorney Amanda Stanley, Judge Karan Thadani, John Schardine, Gretchen Spiker, Monique Glaude', City Manager Stephen Wade

COMMITTEE MEMBERS: Karen Hiller - District 1
Christina Valdivia-Alcalá - District 2
Brett Kell - District 5
Spencer Duncan - District 8

Contact: Liz Toyne, City Council Assistant 785-368-3710

****In person and virtual attendance options are available. Please contact the Council office by 5:00pm the day prior to meeting to request the Zoom link. ****



CITY OF TOPEKA

City Council
City Hall, 215 SE 7th Street, Room 255
Topeka, KS 66603

Tel: 785-368-3710
www.topeka.org

Changing Our Culture of Property Maintenance 2022-2026 Adopted 10-0 on 12/14/2021

With much appreciation for the work of staff, partners and community members, the Topeka City Council Public Health and Safety Committee makes the following final recommendation regarding Changing our Culture of Property Maintenance:

Guiding Principles for Property and Premises:

- Safety of people
- Protection of structures
- Maintenance of an attractive environment
- Maintain or increase property values.

Guiding Principles for Property and Premises:

- Straightforward, kind and fair
- Cost-effective
- Fully integrated with other departments and services

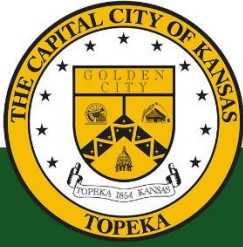
Active Partners: City divisions include Property Maintenance, Forestry, Engineering (Sidewalks), Police, Fire, Development Services, Zoning, Utilities, Executive, Community Engagement, Legal, Municipal Court, others. County divisions include Refuse, Appraiser and County Counselor. Partners also include entities such as the Kansas Legislature, Kansas Department of Transportation, private utilities, a wide range of nonprofits, for-profit businesses and community-based partners, neighborhood associations and others as needed.

Aspirational Goal: Improve the quality of structures and premises in Topeka Kansas so that structures and premises violations are the exception rather than the rule. Our number of substandard properties is never over 500. Owners are motivated to take care of properties before City Departments are even called.

Four (4) 2022-2026 Property Maintenance Challenges:

1) Reduce current substandard structures by 50% in 5 years –

Establish a system, within existing laws, to do complete interior inspections on all structures that appear to need it and/or upon request. As part of that, establish a single visit complete inspection system that provides for one inspection and one write-up procedure for all violations. Include allowing extensions to parties who are working on things, having some sort of system to refer responsible parties to paid or volunteer



CITY OF TOPEKA

City Council
City Hall, 215 SE 7th Street, Room 255
Topeka, KS 66603

Tel: 785-368-3710
www.topeka.org

laborers who can help those who need it. Activate the section in the Code that allows for courtesy inspections. Establish processes and consequences such that citizens will want to take care of issues so that Code does not even request access. This may involve establishing communitywide or neighborhood wide campaigns.

- 2) **Reduce Deterioration in Vacant Structures** – Staff establishes procedures to advise owners of long-term vacant or soon-to-be vacant structures about “Mothballing” standards, encourages owners to implement and refers to resources for advice and assistance. This process would be implemented by Code staff and/or Vacant Buildings Registry vendor through communications accompanying already established communication. Staff would establish strategy with the police department to optimize vacant structure security.
- 3) **Reduce the expense/revenue gap on abatement cases by 50%** – Establish a system and culture whereby it is clear that COT expects owners to take full responsibility for their properties. This is likely to include implementing current capacity to increase fines for extended or repeat violations where good-faith efforts are not made as well as a referral system to paid or volunteer laborers who can assist, perhaps also neighborhood or block initiatives for maintenance.
- 4) **Improve the appearance of the community through management of uncultivated and overgrown vegetation such that the average resident or visitor would score Topeka’s property appearance at least a 7 on a scale of 10. The Police Department would rate 80% or more of properties as in compliance with CPTED (Crime Prevention through Environmental Design) principles within 5 years. At the same time, tree and shrub abatements by City Departments would be reduced by at least 50% (Links with #2 above)** - Initiative will require a minor amendment or new legal interpretation of the Code about vegetation that is over 12” that has turned into shrubs, trees or vines as well as a synch-up with a non-IPMC section of the TMC that addresses the same issue. It will also likely require a major community education campaign in conjunction with a major volunteer assistance campaign to bring our community back to this threshold standard. Optimal partnership with all departments who deal with exterior maintenance issues (Police, Engineering, Zoning, Forestry...also KDOT) as well as a combined ticketing, billing and collections system would seem to be in order.

Change our Culture of Property Maintenance

							ACTUAL				2023															
Goal	TASK TITLE	Municipal Ordinance	Internal Process/ Procedure	Cross-Agency Coordination	TASK OWNER	Partnering Departments	START DATE	DUE DATE	TASK STATUS	Comments	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23	Jul 23	Aug 23	Sep 23	Oct 23	Nov 23	Dec 23	2024	2025	2026	
	*CoC Administrative																									
	Create Webpage for public engagement				Hannah/CC		2/21/2022	5/2/2022	Complete																	
	Spanish Webpage				Hannah/CC				In-Process	The new City of Topeka website will be designed with a multi-lingual focus																
	Key Performance Indicators				CoC		4/1/2023	7/31/2023						X	X	X	X									
	Establish KPI's for each 4 of the 4 goals				CoC		4/1/2023	7/31/2023						X	X	X	X									
	Identify a Backbone Organization				CCPM		10/1/2023																			
4	*Vegetation																									
4	Ordinance Updates	x			Legal/KH/CVA				In-Process																	
4	IPMC Review	x			PD/Legal/CE				Complete	Nothing else needed to be updated related to Vegetation																
4	Administrative SOP		x		Code				Complete	SOP has been amended to include the vegetation requirements.																
4	KDOT mowing			x																						
4	Package Review for prep of PHS Committee meeting		x							End of Jan/Beginning of Feb																
4	Public Health & Safety Committee Review				PHS Committee					May PHS Committee meeting																
4	City Council Vote	x			KH/CVA																					
4	*Trash/Dumping									2024 focus, with ties to other goals and initiatives in 2023																
4	Residential																									
4	Homeless										X															
4	Review current practices of NIA's				CE				Complete	NIAs encouraged to utilize clean-up event options.																
4	Evaluate potential programs				CCPM																					
4	Community-wide dump days																									
4	Explore funding strategies for "free" dumping																									
4	NIA funds and/or coupon for dump																									
4	Tax-supported weekend dumping																									
4	Partnership with County and/or haulers/landfill(s)																									
4	Partnerships with mental health programs to address hoarding																									
4	Define "success" of partnership				CE/CCPM																					
4	Identify potential partners				CE			8/1/2023	In-Process									X								
4	Commercial																									
4	Evaluate Potential Approaches				CCPM																					
	*Neighborhood Self-Help Model																									
	Year 1 Pilot - Mowing						3/7/2022	10/1/2022	Complete																	
	Year 2 Program - Mowing						2/1/2023	10/15/2023	In-Process			X	X	X	X	X	X	X	X	X						
	Season Kick-Off Summit																									
	Community engagement/incentives plan				Communications/CE		1/5/2023	3/1/2023	Complete	Looking to do monthly drawings for submittal of picture of participation with drawings for gift cards		X	X													
	Identify community partners				CE		1/5/2023	3/1/2023	Complete	Recruit/engage with community leaders and groups for participation - Find out if they knew about last year and if so why they didn't participate - Who else they know that would be interested in supporting		X	X													
	Program Promotion Plan				Communications				In-Process																	
	End of Season Celebration																									
	Year 3 Program																									
	Year 4 Program?																									
4	*Neighborhood Profiles/Promotion																									
4	Create Friendly Competition/Awards for Neighborhood Achievements			x			1/1/2024	6/30/2024		GTP Engagement/ CAC																
4	Pilot Neighborhood		x		Planning		3/7/2022	5/6/2022	Complete																	
4	Develop Neighborhood Profiles			x	Planning/CE				Hold																	
4	Graphic depiction for outreach/media		x		Planning/CC				Hold																	
4	*Education/Community Connection																									
4	Create a list of resources including but not limited to social services, programs, incentives, repair resources		x		CE/Housing	Communications		3/1/2023	Complete	Posted on website as well as have copies printed for public at CH/Holiday			X													
4	Define refresh standard		x		CE/Housing/CCPM				Complete	Review as needed first season and annually after																
4	CAC/NIA Communication Strategy - Overall CoC (not specific programs)		x				4/1/2023			Set meeting to kick-off strat conversations in April, work on timeline as part of strat meeting																
4	Develop Content Topics		x		CE/Housing/CCPM					See list of topics from input sessions to start, including items such as noxious weed vs native plants, CPTED training, ect																
4	Develop Content Schedule		x		CC					Partner with external partners to leverage their platforms (GTP/CAC)																
	*Inter-Agency Alignment/Partnership																									

							ACTUAL					2023														
Goal	TASK TITLE	Municipal Ordinance	Internal Process/ Procedure	Cross-Agency Coordination	TASK OWNER	Partnering Departments	START DATE	DUE DATE	TASK STATUS	Comments	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23	Jul 23	Aug 23	Sep 23	Oct 23	Nov 23	Dec 23	2024	2025	2026	
	Establish Team Members Cross-Agency			x						Team to include key staff (i.e. Public Works Dept head, others) possibly with City Elected officials, Shawnee County state delegation, COT lobbyist, others																
	Set up Strategy discussion			x																						
	*May8 Engagement																									
	Phase One: Research and Data Analysis & Phase Two: Conduct Virtual Stakeholder Interviews				Black		1/3/2022	3/6/2022	Complete																	
	Phase Three: Define and Chart Existing Process and Prepare Case Studies as Examples of That Process				Black		3/7/2022	4/20/2022	Complete																	
	Phase Four: Identify Changes to Current Programs, Process and Procedures That Will Increase Equity, Efficiency and Impact				Black		4/21/2022	6/24/2022	Complete																	
	Phase Five - Draft Assessment Memorandum with Recommendations & Phase VI – Present findings and Prepare Implementation Plan, Presentation, Fact Sheets as Well as Metrics to Track Progress				Black		6/25/2022	11/17/2022	Complete																	
R1	1. Create Two Alternative Enforcement Paths for Low-Income Homeowners and Chronic Violators and Strengthen Standard Enforcement	X	X																							
R1	Alternative Path for Homeowners with a Medical or Financial Hardship		x																							
R1	Create declaration of hardship form		x		Municipal Court	Property Maintenance	3/1/2023	4/1/2023	Complete	Form has been created and approved by legal.			X	X												
R1	Create fact sheet to be included with hardship form for owners		x		Municipal Court	Property Maintenance	5/1/2023	7/1/2023						X	X	X										
R1	Create process for Housing Navigator to work with owners		x				3/1/2023	4/1/2023	Complete	Initial process has been established			X	X												
R1	Obtain approval for housing navigator position		x						Complete	Position is in Code Enforcement																
R1	Create timeline for when owner with hardship is in noncompliance returns to the standard process		x		Property Maintenance	Law Dept	5/1/2023	7/1/2023		Timeline will be developed with creation of housing navigator and hardship program					X	X	X									
R1	Provide link to hardship form to all owners on notice of violation letter and door hangers		x		Property Maintenance	Law Dept	5/1/2023	7/1/2023						X	X	X										
R1	Track performance of hardship diversion program and recruit new partners to help owners		x		Property Maintenance	Community Engagement	6/1/2023	12/31/2023		There are programs in the community that will help with medical hardships ARC Care, is one we refer to often.					X	X	X	X	X	X	X	X				
R1	Expand investment in home repair for owners with hardship		x		Housing Services	City Council																				
R1	Alternative Path for Chronic Violators	x	x						Complete																	
R1	Pass drafted ordinance to strengthen enforcement powers over LLCs.	x			City Council	Law Dept			Complete																	
R1	Consolidate cases of chronic violators.	x	x		Property Maintenance	Law Dept		3/1/2023	Complete	Cases are filed from PMU to Law Dept. when legal time line met. Once Habitual ord. is established scheduling for cases can be established.			X													
R1	Municipal Court should use injunctive relief powers to obtain compliance.		x		Municipal Court	Law Dept		3/1/2023	Complete	Court can do it and has the discretion to do so and will use it as they need, has used it once this year			X													
R1	Impose fines, penalties and court costs.		x		Municipal Court	Law Dept		4/1/2023	Complete					X												
R1	In egregious cases where owners refuse to maintain large numbers of rental properties, the city should consider bringing a civil lawsuit.		x		Law Dept			3/1/2023	Complete	In Kansas nuisance laws are handled under the criminal code. We do not see a clear pathway forward with civil law suits. We are testing the limits of the public nuisance laws on some smaller issues to see how it could be utilized but I do not see a viable civil option in Kansas. The States where that has been successful have public nuisance laws as civil offenses rather than criminal			X													
R1	Strengthen Standard Enforcement Path		x																							
R1	Create a clear objective standard for granting continuances		x		Municipal Court	Law Dept	1/1/2023	3/1/2023	Complete		X	X	X													
R1	Revise notice of violation letter		x		Property Maintenance	Law Dept	2/1/2023	6/1/2023	In-Process	Working on format and wording with City 4 and Hannah		X	X	X	X	X										
R1	Routinely assess fines and court costs		x		Municipal Court	Law Dept	11/1/2022	4/1/2023	Complete	Ordinance was passed - Working with MC to assure this is completed. All cases created in 2023 costs are being assessed	X	X	X	X												
R2	2. Prioritize Unsafe and Unsanitary Conditions Within Rental Properties	x	x																							
R2	Update consent of entry form for renters that explains a tenant's right to complain and tenant protections against retaliation by the landlord		x		Property Maintenance	Law Dept/Communications	6/1/2023	12/31/2023	In-Process	Communications/PMU, in partnership with other departments, are kicking off a project to review all existing PMU public education documents in an effort to improve occupant's education of PMU resources and codes.						X	X	X	X	X	X	X				
R2	Amend retaliatory eviction law to encourage tenants to inform government when housing violates the law.	x			Law Dept	City Council	2/1/2023	5/31/2023	In-Process	Waiting on further direction from the Committee on specific pieces to finalize the ordinance		X	X	X	X											

							ACTUAL				2023														
Goal	TASK TITLE	Municipal Ordinance	Internal Process/ Procedure	Cross-Agency Coordination	TASK OWNER	Partnering Departments	START DATE	DUE DATE	TASK STATUS	Comments	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23	Jul 23	Aug 23	Sep 23	Oct 23	Nov 23	Dec 23	2024	2025	2026
R2	Do not close a case when tenant changes and rapidly refile when transferred to a new owner.		x		Property Maintenance	Law Dept	11/1/2022	3/31/2023	Complete	Direction has been given to inspectors to institute immediatlty. This will be add to the SOPs SOPs as a standard practice by the first quarter of 2023. If this case in court this does not go away in the system	x	x	x												
R2	Create checklist and train inspectors on procedure for inspecting interior units.		x		Property Maintenance	Law Dept			Complete	This has been completed for interior inspections as well as exterior inspections.															
R2	Develop a policy to avoid displacing tenants living in dangerous conditions.		x		Housing Services	Property Maintenance	12/15/2022		Complete	Housing and PMU are working together when these cases occur.															
R2	Require landlords to inform tenants about pending code violations.	x	x		Law Dept	City Council		6/1/2023	In-Process	Legal has completed the analysis and believes it could be done through a home rule ordinance. Another option that may be more effective would be creating an occupancy permit and requiring an inspection if there are pending code complaints before it could be re-rented. Legal is currently evaluating OP and other cities ordinances to see how it could be modified to accomplish the goal.						x									
R2	Launch a Mayor's Landlord Committee to lift up rental housing conditions.			x	Mayor																				
R2	PMU coordinate with Topeka Housing Authority, Police and Fire to share problem property information.			x	Property Maintenance	THA, Police and Fire Depts	1/1/2023	3/31/2023	Complete	Initiated this information sharing through an email containing problem properties, weekly abatement schedule, condemned properties, and scheduled demolitions.	x	x	x												
R2	Leave flyers and educational information at multi-family buildings where violations are found to educate tenants living in similar conditions.		x		Property Maintenance	Fire Dept	1/1/2023	6/30/2023	In-Process	PMU developing a multi housing prgram that would go beyond informational fliers. This would include notifying each tenant of their rights and request contact if they believe they have violations in their apartment. Considering a palcard to paste on common entry advising PMU was on scene and noted violations. If they believe they have violations in their apartment to contact the PMU. Prgram development 1st or 2nd quarter of 2023	x	x	x	x	x	x									
R2	Partner with community to serve vulnerable tenants.			x	Housing Services/Commur	Property Maintenance	11/1/2022		In-Process	Community Engaegment - Develop CoC Resource Guide															
R3	3. Educate Owners and Tenants About their Rights and Responsibilities and Work with the Community		x		Community Engagement	Property Maintenance																			
R3	Draft educational materials and widely distribute.		x		Community Engagement	Communications			In-Process	Have reached out to HCCI for their informational pamphlet.															
R4	4. Use City Abatement Resources Strategically		x																						
R4	Monitor worst offenders re sanitation regularly and respond swiftly where violations on a property with a prior abatement begin to appear.		x		Property Maintenance		11/1/2022	3/31/2023	Complete	PMU is creating a tracking list of repaet offenders and offenders requiring roll off dumpsters. The list is for the inspector to follow up on these properties weekly/monthly and open case as soon as violations developes.	x	x	x												
R4	Pilot owner incentives program.		x		Community Engagement	Property Maintenance	6/1/2023	12/31/2023								x	x	x	x	x	x	x			
R4	Evaluate internal abatement policies based on interpretation of Kansas Statute, K.S.A. 12-1617e, meaning of "shall"		x		Law Dept	Property Maintenance			Complete	Legal has completed the analysis, internal SOP's have been updated.															
R4	Review and amend fee waiver policies.		x		Law Dept/Muni Court	Property Maintenance		4/1/2023						x											
	Review current abatement fees (IMPC 106.5)	x			Property Maintenance		1/1/2023	3/1/2023	In-Process	Abatement fees will be adjusted based on mowing contracts for 2023	x	x	x												
R5	5. Identify, Register and Take Action to Reactivate Long-Term Vacant Problem Properties		x				4/1/2023	7/31/2023																	
R5	Identify vacant properties and enforce vacant property registry law.		x		Property Maintenance	Fire and Police Depts				PMU and TFD in discussions for organized systematic effort. PMU already has established vacant registration program. Program has been moving slowly forward in identifying vacant but plans in place to increase registration and identification starting in 1st quarter 2023; Legislation currently introduced which would preempt the city from any type of vacant registry or rules for boarding up vacant strutures etc. Legal is actively working to oppose this legislation				x	x	x	x								
R5	Share information on problem properties among city departments.		x		Property Maintenance	Fire and Police Depts																			
R5	Prioritize worst vacant properties identified by residents and community groups.		x		Property Maintenance	Fire and Police Depts																			
R5	Waive registration fee where owner agrees to bring property into code compliance within six months.		x		Property Maintenance					failure to register penalty fees already being waived if owner registers property. If property is no longer vacant and in compliance registration is lifted.															
R5	Methodically obtain updated, accurate ownership information.		x		Property Maintenance	Law Dept			Complete	PMU is required to use legal address listed on property. Addresses are updated monthly with the county. Inspectors educate owners who have incorrect addresses to the laws and method to correct any incorrect addresses with the county.															
R5	Provide clear minimum standards for securing and protecting vacant buildings.		x		Property Maintenance	Law Dept				Legislation currently introduced would ban the city from doing this. Legal actively working to oppose this legislation															

							ACTUAL				2023														
Goal	TASK TITLE	Municipal Ordinance	Internal Process/ Procedure	Cross-Agency Coordination	TASK OWNER	Partnering Departments	START DATE	DUE DATE	TASK STATUS	Comments	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23	Jul 23	Aug 23	Sep 23	Oct 23	Nov 23	Dec 23	2024	2025	2026
R5	Evaluate how to get access under law and inspect long-term abandoned properties for hazards.		x		Law Dept	Property Maintenance, Fire and Police Depts				PMU working with TFD on long term goal accomplishment															
R5	Work with County to increase transfer of vacant properties at tax sale.			x	City Manager	City Council																			
R5	Determine whether a land bank is needed to reactivate vacant properties.	x			City Manager	City Council				Currently being considered in the Policy and Finance Committee															
R6	6. Welcome Investment by Providing Clear Rules for Repairs an Owner Can Perform		x																						
R6	Clarify rules for repairs owner can perform and those that must be completed by a licensed contractor.		x		Development Services	Law Dept			Complete	Development Services has provided a list of items to rehab contractors as needed.															
	Education/handout for list of items									Take back to original group (round-table) to get feedback on items															
R7	7. Strengthen Data Collection and Analysis		x																						
R7	Collect data on property type.		x		Property Maintenance			3/31/2023																	
R7	Collect data on owner type and record ownership information in structured data fields.		x		Property Maintenance																				
R7	Record all contacts with owners or complainants.		x		Property Maintenance		10/1/2022	6/30/2023																	
R7	Define and record outcomes of cases clearly.		x		Property Maintenance	Municipal Court				internal policies have been updated to reflect this action.	X	X	X	X	X	X									
R8	8. Update Job Descriptions for Inspectors to Lower Turnover and Improve Customer Service Skills, Hire A Housing Navigator, and Consider an Additional Support Staff Member		x																						
R8	Update inspector job description.		x		Property Maintenance	Law Dept/Human Resources	11/15/2022	3/1/2023	Complete	HR has approved all Inspector positions.	X	X	X												
R8	Add housing navigator position and train.		x		City Manager	Property Maintenance/Housing Services			Complete	Irma Faudoa has been hired for this position. HR is in the process of creating a JD for her position. I have given her housing resources that must be validated. He is working with contractors to meet our housing needs.															
R8	Consider adding one additional support staff position.		x		City Manager	Property Maintenance/Human Resources	1/1/2023	3/1/2023	In-Process	Additional staff need is currently being evaluated.	X	X	X												
R9	9. Expand Multi-Family Common Area Fire Safety Inspections		x																						
R9	Institutionalize program and reinspect where find fire safety violations.		x		Fire Dept	Law Dept			Complete	Inspections continue and will continue to be done on an annual basis.															
R10	10. Transfer Tax Delinquent Vacant Properties to Responsible New Owners at Tax Sale			x																					
R10	Negotiate with County to put more tax delinquent properties up for sale			x	City Manager	City Council/Law Dept																			
R10	Sign City/County interlocutory agreement to jointly maintain properties that fail to sell at tax sale.			x	City Manager	City Council/Law Dept																			
R10	Request that county require the "highest qualified bidder" to be code compliant on all existing properties.			x	City Manager	Law Dept																			
R11	11. Record Contract for Deeds as First Step to Increasing Transparency of Process that Often Harms or Defrauds Buyer			x						Legislation currently introduced to require this. Legal is working with our lobbyist to support this legislation															
R11	Negotiate with County to Require Contract for Deeds to be recorded with the County Register of Deeds for public view.			x	City Manager	City Council/Law Dept																			

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by City Manager Stephen Wade concerning procedures
6 for prosecuting International Property Maintenance Code violations
7 in Municipal Court, amending Topeka Municipal Code sections
8 2.40.040, 2.40.130, 2.40.180, 2.40.210, 8.60.070, 8.60.110 and
9 8.75.040 and repealing original sections and creating new sections
10 2.40.405 and 2.45.050.

11
12 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

13 Section 1. That section 2.40.040, Intent-Construction-Procedure not provided,
14 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

15 **Intent – Construction – Procedure not provided; Liability for legal entities.**

16 (a) This Code is intended to provide for the just determination of every
17 proceeding for violation of City ordinances. Its provisions shall be construed to secure
18 simplicity in procedure, fairness in administration and the elimination of unjustifiable
19 expense and delay. If no procedure is provided by this Code, the court shall proceed in
20 any lawful manner consistent with any applicable law and not inconsistent with this
21 Code.

22 (b) A legal entity is responsible for acts committed by its agents when acting
23 within the scope of the agent's authority.

24 (c) A person who violates an ordinance, or causes such acts to be performed,
25 in the name of or on behalf of a legal entity is legally responsible to the same extent as
26 if such acts were performed in the person's own name or on the person's behalf.

27 Section 2. That section 2.40.130, Definitions, of The Code of the City of
28 Topeka, Kansas, is hereby amended to read as follows:

29 **Definitions.**

30 As used in this article:

(a) "Accused person" means a person, corporation or other legal entity accused by a complaint of the violation of a City ordinance.

(b) "Agent" means any director, officer, partner, member, employee or other person who is authorized to act on behalf of a legal entity.

(bc) "Appearance bond" means an undertaking, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions of the undertaking.

(ed) "Arraignment" means the formal act of calling the person accused of violating an ordinance before the Municipal Court to inform the person of the offense with which the person is charged, to ask the person whether the person is guilty or not guilty and, if guilty, to impose sentence.

(de) "Arrest" means the taking of a person into custody in order that the person will appear to answer for the violation of an ordinance. The giving of a notice to appear is not an arrest.

(ef) "Bail" is the security given for the purpose of insuring compliance with the terms of an appearance bond.

(fg) "City Attorney" means any attorney who represents the City in the prosecution of an accused person for the violation of a City ordinance.

(gh) "Complaint" means a sworn written statement, or a written statement by a law enforcement officer, the City Attorney or an Assistant City Attorney, an animal control officer, a parking control officer as specifically authorized by TMC 10.60.350, a property maintenance inspector as specifically authorized by TMC 10.60.120 or a Fire Department employee with authority to enforce the fire code that recites the essential facts constituting a violation of an ordinance.

(~~h~~i) “Custody” means the restraint of a person pursuant to an arrest.

(~~i~~j) “Detention” means the temporary restraint of a person by a law enforcement officer.

(~~j~~k) “Law enforcement officer” means any person who by virtue of office or public employment is vested by law with a duty to maintain public order and to make arrests for violation of the laws of the State of Kansas or ordinances of any municipality thereof. For the purposes of signing and serving a uniform complaint and notice to appear or a subpoena, the term shall also mean the City Attorney or an Assistant City Attorney, an animal control officer, a parking control officer as specifically authorized by TMC 10.60.350, a property maintenance inspector as specifically authorized by TMC 10.60.120 or a Fire Department employee with authority to enforce the fire code.

(~~l~~) “Legal entity” means a business trust, corporation, limited partnership, limited liability partnership, limited liability company and a foreign covered entity, as defined in K.S.A. 17-7902 and amendments thereto.

(~~k~~m) “Notice to appear” is a written notice to a person accused by a complaint of having violated an ordinance of a City to appear at a stated time and place to answer to the charge of the complaint.

(~~l~~n) “Ordinance cigarette or tobacco infraction” is a violation of an ordinance that proscribes the same behavior as proscribed by subsection (m) or (n) of K.S.A. 79-3321 and amendments thereto.

(~~m~~o) “Ordinance traffic infraction” is a violation of an ordinance that proscribes or requires the same behavior as that proscribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118 (1998 Supp.) and amendments thereto.

(~~p~~) “Resident agent” is the representative of a legal entity appointed pursuant

79 to K.S.A. 17-7901 et seq. and amendments thereto.

80 (g) “Show cause order” is a process issued by the court to require a resident
81 agent or other representative of a legal entity to appear and give testimony regarding
82 whether the court should proceed to trial and judgment without further process.

83 (h) “Subpoena” is a process issued by the court to cause a witness to appear
84 and give testimony at a time and place therein specified.

85 (i) “Warrant” is a written order made by a Municipal Judge directed to any law
86 enforcement officer commanding the officer to arrest the person named or described in
87 it.

88 Section 3. That section 2.40.180, Notice to appear – Contents - Form, of The
89 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

90 **Notice to appear – Contents – Form.**

91 (a) A notice to appear shall describe the offense charged, shall summon the
92 accused person to appear, shall contain a space in which the accused person may
93 agree, in writing, to appear at a time not less than five days after such notice to appear
94 is given, unless the accused person shall demand an earlier hearing. A notice to appear
95 may be signed by a Municipal Judge, the clerk of the Municipal Court, the City Attorney,
96 an Assistant City Attorney, a law enforcement officer of the City, an animal control
97 officer, or a Fire Department employee with authority to enforce the Uniform Fire Code.

98 (b) If the accused person is a legal entity, the notice to appear shall summon
99 an agent.

100 (c) A notice to appear shall be deemed sufficient if in substantially the form of
101 the notice to appear set out in K.S.A. 12-4204 and amendments thereto, or if in
102 substantially the following form:

IN THE MUNICIPAL COURT
OF TOPEKA, KANSAS

The City of Topeka, Kansas

vs.

(Accused person)

(Address)

NOTICE TO APPEAR

The City of Topeka, Kansas, To The Above Named Accused Person.

You are hereby summoned to appear before the Municipal Court of Topeka, Kansas, on the _____ day of _____, _____, at _____ o'clock, _____ .m., to answer a complaint charging you with

_____.

If you fail to appear a warrant will be issued for your arrest.

Dated _____, _____.

/s/ _____

Signature of Official

/s/ _____

Title of Official

I agree to appear in said Court at said time and place.

/s/ _____

Signature of Accused Person or Agent

RETURN

The undersigned hereby certifies that on the _____ day of _____, _____, the notice to appear was served, mailed or delivered.

/s/ _____

Signature and Title of Official

Section 4. That section 2.40.210, Notice to appear – Service - Return, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Notice to appear – Service – Return.

(a) The notice to appear shall be served upon the accused person by delivering a copy to him or her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person.

(b) If the accused person is a legal entity, the notice to appear shall be served by mailing it to the address of the legal entity identified in the records maintained by the Kansas Secretary of State and serving the notice to appear as follows:

(1) serving a copy on an officer, manager, partner or agent;

(2) leaving a copy at any of the business offices with the person having charge; or

(3) serving a copy on any resident agent by mailing the notice to the address of the resident agent identified in the records maintained by the Kansas Secretary of State.

(c) A notice to appear may be served by any law enforcement officer, the Municipal Judge, the clerk of the Municipal Court, the City Attorney, an Assistant City Attorney, an animal control officer, a parking control officer as specifically authorized by TMC 10.60.350, a property maintenance inspector as specifically authorized by TMC 10.60.120 or a Fire Department employee with authority to enforce the fire code, and, if mailed, shall be mailed by a law enforcement officer, the Municipal Judge, the clerk of the Municipal Court, the City Attorney, any animal control officer, a parking

control officer as specifically authorized by TMC 10.60.350, a property maintenance inspector as specifically authorized by TMC 10.60.120 or a Fire Department employee with authority to enforce the fire code.

(d) Upon service by mail, the person serving the notice to appear shall execute a verification to be filed with a copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the _____ day of _____, _____, a copy of notice to appear was mailed to _____ at _____

/s/ _____
Signature of Person Serving
Notice to Appear

Section 5. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.40.405, which said section reads as follows:

Failure to appear; show cause.

(a) If the accused person fails to appear, the court shall declare the appearance bond to be forfeited and may issue a warrant for the arrest of the accused person.

(b) If the accused person is a legal entity and the resident agent or other agent of the legal entity fails to appear, the court shall issue a show cause order to the resident agent. Upon failure to appear at the show cause hearing, the court shall proceed to trial and judgment without further process.

Section 6. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.45.050, which said section reads as follows:

Appeal to district court.

(a) Pursuant to K.S.A. 60-2101 and amendments thereto, any person

aggrieved by a determination issued by a hearing officer may appeal to the district court by doing all of the following:

(1) Submit a written notice of appeal to the City Clerk within 30 days of the determination. The notice shall include: (i) the person's name, mailing address, email address and telephone number; (ii) the date of the determination; (iii) case number; and (iv) type of case (i.e. parking, property maintenance costs). The City Clerk shall file-stamp or memorialize the date of receipt of the notice and return a copy to the person.

(2) Submit a written request to the City Clerk for one copy of all pertinent records relative to the proceeding including but not limited to any recording or transcript of the proceedings. The request shall be submitted to the City Clerk within 10 days of the date of receipt of the notice of appeal. Prepayment of all copying and other fees set forth in TMC 2.10.120 shall be required prior to production of the records.

(3) File with the Clerk of the Shawnee County District Court the pertinent records prepared by the City Clerk within 60 days from the date of receipt of the notice of appeal.

(b) Failure to file the records with the Clerk of the Shawnee County District Court within the 60 day period may result in the appeal being dismissed by the district court.

(c) Unless the person requests from the district court a stay of the determination of the hearing officer within 70 days from the date of receipt of the notice of appeal, the City may proceed with enforcement.

Section 7. That section 8.60.070, Section 106 – Violations, abatements, fees,

of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Section 106 – Violations, abatements, fees.

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

(a) 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 subsection (b). 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 or section 8.75.040 shall not be a defense to a violation or prevent prosecution and adjudication in Municipal Court.

(b) Punishment for a violation of the International Property Maintenance Code (IPMC), adopted pursuant to TMC 8.60.010, shall be as follows:

(1) Upon a first conviction, a fine of not more than one thousand dollars;

(2) Upon a second conviction, a fine of not less than one hundred dollars nor more than one thousand dollars;

(3) Upon a third conviction, a fine of not less than five hundred dollars nor more than one thousand dollars;

(4) Upon a fourth or subsequent conviction, a fine of not less than one thousand dollars nor more than two thousand five hundred dollars;

(5) In addition to the preceding fines such person may be punished by a term of imprisonment which shall not exceed six (6) months, or by both such fines and imprisonment.

(c) For the purposes of determining whether a conviction is a first or subsequent conviction in sentencing under this section:

(1) conviction includes being convicted of a violation of the IPMC, and it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(2) conviction includes being convicted of a violation of the IPMC or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(3) any convictions occurring during the three years prior to the date of the occurrence shall be taken into account when determining the sentence to be imposed.

(d) Each day that any violation of this ordinance continues shall constitute a separate offense and be punishable hereunder as a separate violation.

(e) In addition to the penalties set forth above, the court may require that the owner register the property pursuant to Chapter 8.65 TMC.

Section 8. That section 8.60.110, Section 111 – Hearing, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Section 111 – Hearing.

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

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 on or before the date designated in the notice.

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

(c) Written notice of the hearing date and time shall be provided to the person requesting the hearing within 10 calendar days of the hearing request.

(d) The Administrative Hearing Officer shall affirm, modify or reverse the decision of the Code Official upon a determination that: (i) the notice of violation was served in accordance with TMC 8.60.080, subsection 107.3; (ii) the provisions of Chapter 8.60 apply; (iii) the Code Official has correctly interpreted Chapter 8.60; and/or (iv) the requirements of Chapter 8.60 cannot be adequately satisfied by other means. The Hearing Officer may order abatement of the violation, impose an administrative penalty, and assess the abatement costs against the owner.

(e) The Administrative Hearing Officer may administer oaths and affirmations, examine witnesses and receive evidence. The Hearing Officer may grant continuances where the officer finds that there is practical difficulty or undue hardship and that such extension is consonant with the general purpose to secure compliance with Chapter 8.60.

(f) ~~The order may be appealed to the district court in accordance with K.S.A. 60-2101 and amendments thereto.~~ Pursuant to K.S.A. 60-2101 and amendments

thereto, any person aggrieved by a determination issued by the administrative hearing officer may appeal to the district court by doing all of the following:

(1) Submit a written notice of appeal to the City Clerk within 30 days of the determination. The notice shall include: (i) the person's name, mailing address, email address and telephone number; (ii) the date of the order; and (iii) case number. The City Clerk shall memorialize the date of receipt of the notice by file-stamp or another method and return a copy to the person.

(2) Submit a written request to the City Clerk for one copy of all pertinent records relative to the proceeding including but not limited to any recording or transcript of the proceedings. The request shall be submitted to the City Clerk within 10 days of the date of receipt of the notice of appeal. Prepayment of all copying and other fees set forth in TMC 2.10.120 shall be required prior to production of the records.

(3) File with the Clerk of the Shawnee County District Court the pertinent records prepared by the City Clerk within 60 days from the date of receipt of the notice of appeal.

(4) Failure to file the records with the Clerk of the Shawnee County District Court within the 60 day period may result in the appeal being dismissed by the district court.

(5) Unless the person requests from the district court a stay of the hearing officer's order within 70 days from the date of receipt of the notice of appeal, the City may proceed with enforcement.

Section 9. That section 8.75.040, Hearing, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Hearing.

(a) The Administrative Hearing Officer may administer oaths and affirmations, examine witnesses and receive evidence. The Hearing Officer may grant continuances where the officer finds that there is practical difficulty or undue hardship and that such extension is consonant with the general purpose to secure compliance with this chapter.

(b) If the Hearing Officer determines that: (1) the complaint was served in accordance with TMC 8.75.030; (2) the structure is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, such that it is unreasonable to repair the structure, the officer will provide findings to that effect, in writing, and shall issue an order which requires the owner to:

(1) Demolish and remove the structure within a prescribed period of time;

(2) Repair and/or make safe and sanitary the structure within a prescribed period of time if the structure is capable of being made safe by repairs;

(3) Board up the structure for future repair, subject to conditions; or

(4) Demolish or board up for future repair a structure under construction where construction has ceased for more than two years. Boarding the structure for future repair shall not extend beyond one year, unless approved by the Hearing Officer.

(c) Any order shall be served on the property owner pursuant to TMC 8.75.030 and a copy served personally or by first class mail to the other persons identified in TMC 8.75.030. Additionally, except for continuances, the order shall be

328 posted in a conspicuous place on the premises and filed with the Register of Deeds and
329 the clerk of the district court in which the property is located.

330 (d) ~~The order may be appealed to the district court in accordance with K.S.A.~~
331 ~~60-2101 and amendments thereto.~~Pursuant to K.S.A. 60-2101 and amendments
332 thereto, any of the parties identified in TMC 8.75.030 may appeal to the Shawnee
333 County District Court by doing all of the following:

334 (1) Submit a written notice of appeal to the City Clerk within 30 days of
335 the determination. The notice shall include: (i) the person's name, mailing
336 address, email address and telephone number; (ii) the date of the order; and (iii)
337 case number. The City Clerk shall memorialize the date of receipt of the notice
338 by file-stamp or another method and return a copy to the person.

339 (2) Submit a written request to the City Clerk for one copy of all
340 pertinent records relative to the proceeding including but not limited to any
341 recording or transcript of the proceedings. The request shall be submitted to the
342 City Clerk within 10 days of the date of receipt of the notice of appeal.
343 Prepayment of all copying and other fees set forth in TMC 2.10.120 shall be
344 required prior to production of the records.

345 (3) File with the Clerk of the Shawnee County District Court the
346 pertinent records prepared by the City Clerk within 60 days from the date of
347 receipt of the notice of appeal.

348 (4) Failure to file the records with the Clerk of the Shawnee County
349 District Court within the 60 day period may result in the appeal being dismissed
350 by the district court.

(5) Unless the person requests from the district court a stay of the hearing officer's order within 70 days from the date of receipt of the notice of appeal, the City may proceed with demolition.

Section 10. That original § 2.40.040, § 2.40.130, § 2.40.180, § 2.40.210, § 8.60.070 § 8.60.110 and § 8.75.040 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 11. This ordinance shall take effect on January 1, 2023, and be in force from and after its passage, approval and publication in the official City newspaper.

Section 12. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 13. 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 _____.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk



CITY OF TOPEKA
MUNICIPAL COURT

Karan M. Thadani, Administrative Judge
Municipal Court, 214 SE 8th Street
Topeka, KS 66603

Tel: 785-368-3776
www.topeka.org

MEMORANDUM

To: CoC Committee c/o Hannah Uhlig

From: Judge Thadani

Date: February 23, 2023

Re: Code Docket Continuance Procedure

In 2015, environmental/structural blight, grass/weed complaints, and zoning/land use regulations were pressing issues before the Topeka City Council. To help combat some of those problems, the Council adopted the International Property Maintenance Code [IPMC]. The IPMC provides requirements for continued use and maintenance of building elements, site conditions, swimming pools, plumbing, mechanical, electrical, and fire protection systems in existing residential and nonresidential structures.

At the same time, the Code Docket was created at the Topeka Municipal Court. All Defendants that have been criminally charged with IPMC violations appear before the Court on the Code Docket where a Judge, Prosecutor, and Code Inspector are present. IPMC violations are considered unclassified misdemeanors under the Topeka Municipal Code, punishable by up to 179 days in jail and up to a \$499 fine.

Historically, the goal of the Code Docket has been to work with Defendants to correct the code violations on their property. To assist them, some of the things that we do are: direct them to services, grant continuances, get them in contact with their Code Inspector, and give them detailed pictures of the violations. The goal was reached once the violations are corrected by owner [CBO], a satisfactory re-inspection has been completed, and the code case was dismissed by the Prosecutor at no cost to the Defendant.

For all cases filed in 2023, and moving forward, we will still continue to work with Defendants, but CBO cases will no longer be dismissed without a cost to the Defendant. In November 2022, the City Council adopted an ordinance that mandates court costs to be imposed on all code case dismissals. Thus, if a code case is dismissed in 2023+, a \$76 court cost will be assessed to the Defendant.

Procedurally, when a Defendant appears before the Court for the first time in a code case, he/she can either contest the charges or tell us they are willing to work with the City to correct the violations. If they express a desire to contest the charges, we enter a not-guilty plea and set the case for trial. Alternatively, if they are willing to correct the violations and work towards the case being dismissed, we continue the case for 60 days to see what kind of progress can be made. In those 60 days, we advise Defendants that

we are looking for two primary things when determining whether or not a future continuance will be granted: one, has there been progress since the last time the Defendant appeared before the Court, and two, has the Defendant made contact with their Code Inspector to update him/her on the progress being made.

Although progress can be as simple as purchasing material or putting down a payment for a contractor, it can also be more complicated like waiting on the eviction process [to get the problem tenant out of the violation property] or finding someone who specializes in the areas of lead-paint or stucco remediation. Progress can be impacted by the weather [you cannot paint below 50 degrees], and more recently, it has also been impacted by supply-chain issues. Ultimately, progress is not an easy thing to measure because not all Defendants are created equally and some properties pose more immediate concerns than others. As such, it is imperative for us to consider each Defendant's individual situation, paying particular attention to their financial hardships and their ability to correct the violations themselves.

Ultimately, if a Defendant returns to Court and has made reasonable progress towards correcting the violations, we usually grant them another sixty 60 day continuance. We will continue to do this until the case is dismissed by the Prosecutor. However, in situations wherein progress begins to diminish and the efforts of the Defendant begin to dwindle, the length of time between continuances begins to shorten from 60 days to 45 days to 30 days. In those cases, once progress stops and the Court is unwilling to grant another continuance, the Defendant can set the case for trial or enter into a plea deal with the Prosecutor. Either way, the case will no longer remain on the weekly Code Docket.

Ideally, we do not like cases to remain on the Code Docket for more than a year but as noted above, we have to understand that each Defendant presents their own unique situation. But the fact of the matter is that once a case has been pending on the Code Docket for a year, it has really been in the system for at least 2 years (6 months to a year at code before it is sent to Prosecution for charging and filing with the Court which takes another 6 months) and some point, it no longer becomes prudent to keep "kicking the can down the road."

Plea Deal Example

The Defendant is criminally charged in Municipal Court with four code violations. The case has been pending on the Code Docket for a year, having been continued several times for various reasons. We reach a point where it becomes clear that the Defendant has no gumption to correct the violations on his/her property. The Prosecutor objects to another continuance and the Court agrees by not granting one. The Defendant can either ask for a plea offer or set the case for trial. The Defendant desires to enter into a plea agreement and agrees to plead guilty to two violations. In exchange for the guilty pleas, the Prosecutor dismisses the other two charges. The Defendant is assessed \$76 in court costs, and fined \$250 on each violation, totaling \$576. The Defendant is given 90 days to correct the violations that he/she was just convicted of. After 90 days, if the violations are corrected, the Court will suspend the \$250 fine. In this situation, the Defendant would be left with a balance of \$76. Six months go by and the Code Inspector revisits the property to do a re-inspection, finding that violations still remain. For the second time, the Defendant is sent a fix-it letter from Property Maintenance. The Defendant does not comply and the case is sent back to Prosecution to file criminal charges again. We go through the same process, except this time, if the Defendant still does not comply, we levy more severe fines or place the Defendant on probation with an underlying jail sentence.

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Stephen Wade concerning exterior property area maintenance provisions of the International Property Maintenance Code, amending § 8.60.140, § 8.60.070 and § 8.60.080 of the Topeka Municipal Code and repealing original sections.

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

Section 1. That section 8.60.140, Section 302 – Exterior property areas, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Section 302 – Exterior property areas.

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

~~Weeds~~Vegetation.

(a) All ~~premises and exterior property~~ including any easement or public right of way abutting the property shall be maintained free from ~~weeds or plant growth~~vegetation in excess of twelve inches in height. All noxious weeds, as defined by the Kansas Department of Agriculture pursuant to K.S.A. 2-1313a and amendments thereto, shall be prohibited. ~~Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided~~Vegetation means, but is not limited to, weeds, woody vines, volunteer saplings four to six inches in diameter, shrubs, brush, grass and uncultivated plants; however this term shall not include cultivated flowers and gardens which are defined as areas cultivated for growth of vegetables, fruits, herbs, flowers, native plants. A native plant is any plant indigenous to the local ecosystem. Upon failure of the owner or agent having charge of the property to comply

with this section after service of a notice of violation, the person may be subject to prosecution in accordance with Section 106.3. Upon failure to comply with the notice, the City or its contractor may enter upon the property to remove or destroy the weeds and/or vegetation and assess the costs against the owner.

(b) Notwithstanding subsection (a), an owner of undeveloped property that exceeds one acre is only responsible for removing or destroying vegetation within fifteen feet from the property line.

Section 2. That section 8.60.070, Section 106 – Violations, abatements, fees, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Section 106 – Violations, abatements, fees.

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

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 or section 8.75.040 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 therefor:

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.

Section 106.5, Abatement of violations, is deleted in its entirety and the following provisions shall be substituted therefor:

(a) Abatement. Upon the expiration of the compliance period stated in the notice of violation, the Code Official shall inspect the property. The Code Official may grant an extension of time if the owner demonstrates that due diligence is being exercised in abating the violation. If the owner has failed to comply within the compliance period or has failed to timely request an appeal hearing, the Code Official may abate the violation and assess the costs against the owner. If the costs are not paid within 30 days, the cost may be collected pursuant to K.S.A. 12-1,115 and amendments thereto and/or charged against the property pursuant to K.S.A. 12-1617e, K.S.A. 12-1617f, K.S.A. 12-1755, or K.S.A. 17-4759 and amendments thereto.

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

General violations of the IPMC \$140.00

75 ~~Weeds and grasses~~Vegetation \$140.00

76 Inoperative vehicles \$175.00

77 Section 3. That section 8.60.080, Section 107 – Notices, of the Code of the
78 City of Topeka, Kansas, is hereby amended to read as follows:

79 **Section 107 – Notices.**

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

82 The notice prescribed in Section 107.1 shall include the following:

83 1. Description of the real estate sufficient for identification.

84 2. A statement that includes a description of the conditions and identifies
85 violations of Chapter 8.60.

86 3. A statement that the property owner must abate the violation by the date
87 designated in the notice.

88 4. A statement advising that any owner may request an appeal hearing before an
89 Administrative Hearing Officer. The request shall be submitted to the Code Official on or
90 before the date designated in the notice. The scope of the appeal shall be limited to the
91 following: (i) whether the provisions of Chapter 8.60 apply; (ii) whether the Code Official
92 has correctly interpreted Chapter 8.60; and/or (iii) whether the requirements of Chapter
93 8.60 can be adequately satisfied by other means.

94 5. A statement that if the violations(s) is not corrected or a hearing requested, the
95 City may impose administrative penalties, abate the violation, and assess the costs
96 against the owner.

97 6. A statement advising that failure to timely comply with the notice may result in

98 prosecution in Municipal Court regardless whether an administrative hearing is pending.

99 Section 107.3, Method of Service, is deleted in its entirety and the following
100 provisions shall be substituted therefor:

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

102 1. Personal service; residence service. Delivering the notice to the
103 property owner or leaving the notice at the property owner's dwelling or usual
104 place of abode with someone of suitable age and discretion who resides there.

105 2. Personal service; residence service unsuccessful. If personal or
106 residence service cannot be made, service may be effected by: (i) leaving a copy
107 of the notice at the property owner's dwelling or usual place of abode; and (ii)
108 mailing to the property owner by first-class mail a notice that the copy has been
109 left at the dwelling or usual place of abode.

110 3. Personal service; legal entity. If the property owner is a legal entity,
111 service may be effected as follows:

112 (i) serving the notice on an officer, manager, partner or a resident,
113 managing or general agent;

114 (ii) leaving a copy of the notice at any business office with the
115 person having charge of the office; or

116 (iii) serving the notice on any agent authorized by appointment or
117 by law to receive service of process.

118 4. Certified mail, return receipt requested, to the last known address of the
119 property owner as reflected in the records of the County Appraiser.

120 5. Delivery failure. If the property owner or the property owner's agent has

failed to accept delivery of notice or otherwise failed to effectuate receipt of notice during the preceding twenty-four month period, notice may be provided by other methods, including but not limited to door hangers, conspicuously posting notice on the property, personal notification, telephone communication, electronic communication, or first class mail.

6. In addition to the methods identified in this section, but not in lieu of, 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 electronic 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 additional notice. The notice shall also include a statement that no further notice shall be given prior to cutting or removing ~~weeds~~vegetation.

(b) 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.

Section 4. That original § 8.60.140, § 8.60.070 and § 8.60.080 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 5. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 6. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 7. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on _____.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk

CITY RIGHT-OF-WAY THAT IS UNMAINTAINED

- SE 9th between SE Highland and SE Gilmore
- Remove trees, vines and undergrowth 5" and smaller.
- 15' Wide X 600' length (Average Alley is 500 feet)
 - Cost: \$3,800.00



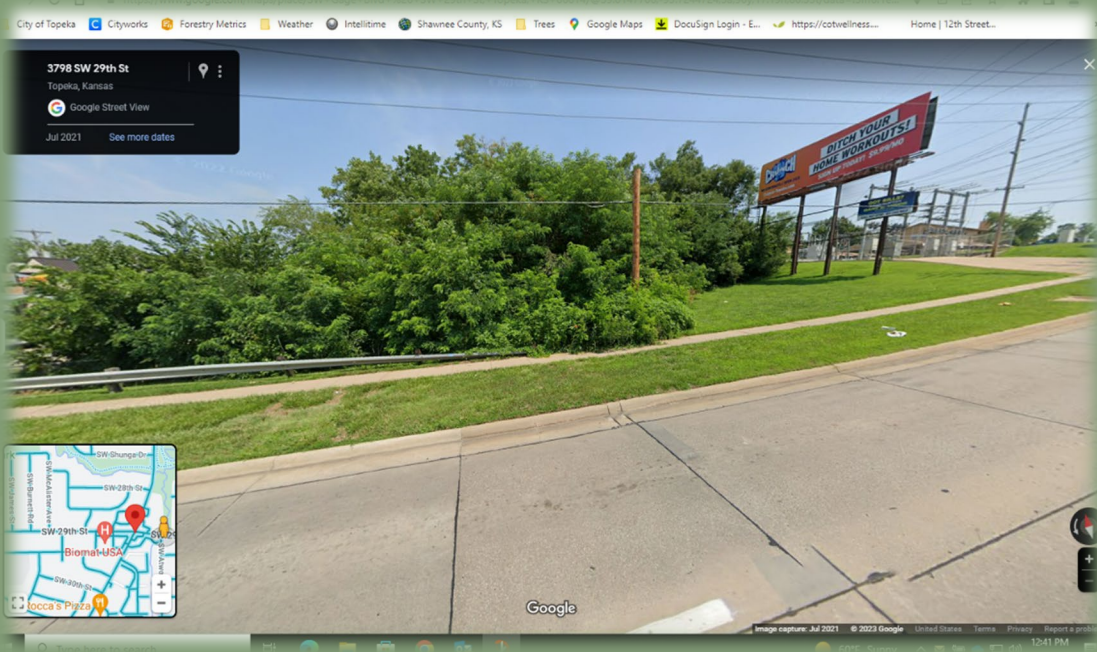
PRIVATE EASEMENT: SW 9TH BETWEEN FRAZIER AND ORLEANS

- Looking North from 9th
- Private/No Forestry jurisdiction
- Will need a warrant to enter property/right to enter agreement
- Looking South from 9th
- Hand Clear 10' wide 600' long 3" and smaller brush/honeysuckle
- Cost: \$1,250.00



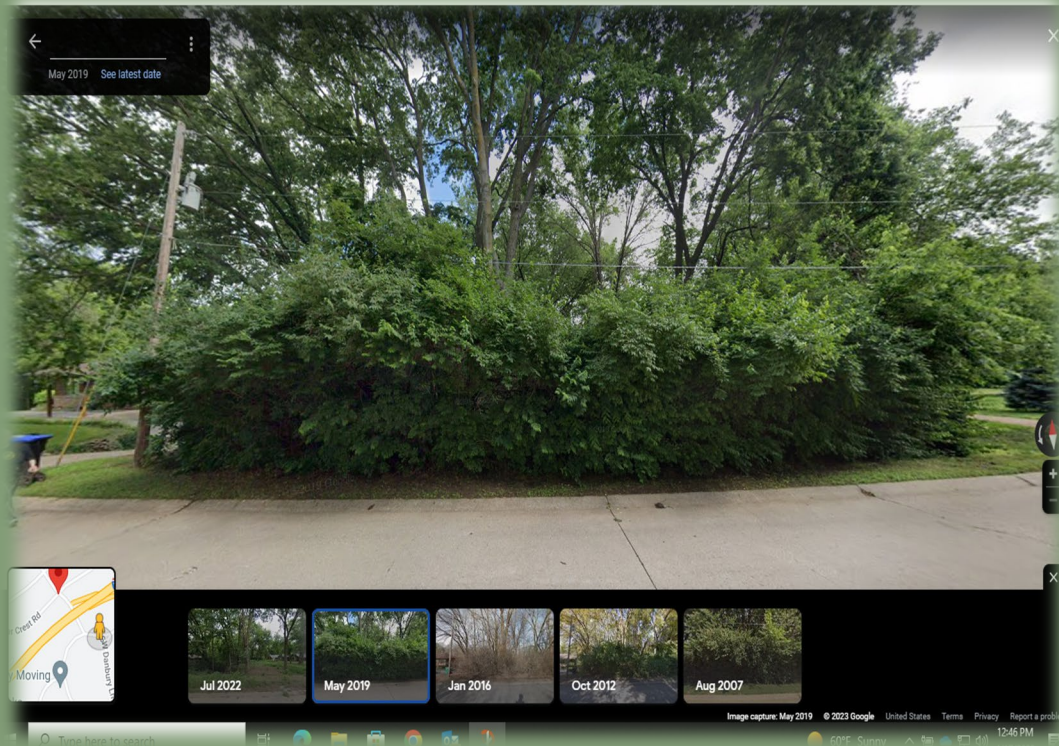
CREEK EASEMENT: SW 29TH AND SW GAGE BLVD

- Clear small trees, honeysuckle and debris
- Work with WPC: Stream Buffer ordinance
- Cost for clearing: \$30,000.00
- New Cost: Seeding, Mowing and brush removal to maintain and keep clear.



POTENTIAL COST TO PROPERTY OWNER

- 200 SW Yorkshire Rd
- Property Cited by Code in 2022
- Clear wooded area of fallen and dead trees along with undergrowth
- Cost to property owner: \$14,000.00
- New Cost: Cost to seed cleared area, more mowing and brush clearing.



CLEARING PUBLIC RIGHT OF WAY

Clearing Sidewalk

Cost \$650



Clearing
sidewalk/wall



Clearing vines:

Cost \$2,400



CLEARING FENCE BETWEEN PROPERTIES

COST : \$6,000



ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Stephen Wade, concerning retaliatory eviction, amending § 9.25.010 through § 9.25.030 of the Topeka Municipal Code and repealing original sections and creating § 9.25.040 and § 9.25.050.

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

Section 1. That section 9.25.010, Policy, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Policy.

The ~~Council~~Governing Body recognizes the fact that many tenants hesitate to defend their right to a clean, safe and sanitary dwelling unit due to fear of eviction. It is hereby declared to be the public policy of the City that ~~no~~a tenant in good standing should not be evicted from their dwelling unit due to retaliatory or harassment motives where the eviction is motivated by the tenant's exercise of a legal right to complain, in good faith, to a landlord or government agency that the dwelling unit endangers or impairs the health and safety of the tenant.

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.25.020, which said section reads as follows:

Definitions.

"Dwelling unit" means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Good faith" means honesty in fact in the conduct of a transaction.

"Good standing" means that a tenant is not in arrears in the payment of rent and is in compliance with the duties of a tenant enumerated in K.S.A. 58-2555 and

amendments thereto.

“Landlord” means the owner or lessor of a dwelling unit or the building of which the unit is a part.

“Rental agreement” means all agreements, written or oral, embodying the terms and conditions concerning the use and occupancy of a dwelling unit.

“Tenant” means a person entitled under a rental agreement to occupy a dwelling unit.

“Retaliate” or “retaliatory action” shall include but not be limited to any of the following actions by a landlord when such actions penalize a tenant because of an action identified in TMC 9.25.030:

(1) Commencement of eviction;

(2) Increasing the rent; and

(3) Reduction of services required to be provided by the landlord pursuant to the rental agreement and/or K.S.A. 58-2553 and amendments thereto.

Section 3. That section 9.25.020, Unlawful actions by landlords, of The Code of the City of Topeka, Kansas, is hereby renumbered as 9.25.030 amended to read as follows:

Unlawful actions by landlords.

(a) It shall be unlawful for any owner or a landlord of any dwelling to commence any action or proceeding to recover possession of a dwelling unit from a tenant, demand an increase in rent from the tenant, decrease services to which the tenant has been entitled, or otherwise cause the tenant to involuntarily quit the dwelling unit within six months after any of the following acts have occurred to retaliate against a

51 tenant if the following conditions are met:

52 (a1) The tenant has organized or has become a member of a tenant's
53 union or similar organization; or ~~the tenant has complained~~submitted a
54 complaint, in writing and in good faith, either to the landlord or to a governmental
55 agency charged with responsibility for enforcement of statutes, ordinances or
56 regulations pertaining to the maintenance of safe and sanitary dwellings, of
57 conditions in or affecting ~~his~~the tenant's dwelling unit which constitutes a violation
58 of any statute, ordinance or regulation pertaining to the maintenance of safe and
59 sanitary dwellings; ~~and a government official has filed a notice or complaint of~~
60 ~~such violation.~~

61 (2) The violation in subsection (a)(1) imposes responsibility on the
62 landlord; and

63 (3) The landlord retaliated against the tenant within six (6) months of
64 either (i) the date the tenant organized or joined a tenant's union or similar
65 organization, or (ii) the date the tenant submitted the complaint.

66 ~~(b) The tenant has organized or has become a member of a tenants' union or~~
67 ~~similar organization.~~If all of the conditions in subsection (a) are met, the tenant may
68 submit an affidavit, the rental agreement and any other documentation to the City
69 Attorney or designee.

70 Section 3. That section 9.25.030, Landlord rights, of The Code of the City of
71 Topeka, Kansas, is hereby renumbered as 9.25.040 and amended to read as follows:

72 ~~Landlord rights~~**Actions deemed not retaliatory.**

73 ~~Notwithstanding the provisions in TMC 9.25.020, a landlord may bring an action~~

for possession if:

~~(a) — A violation of an applicable statute, ordinance or regulation was primarily caused by a lack of reasonable care by the tenant or other person in the tenant's household or persons upon the premises with the tenant's consent;~~

~~(b) — The tenant is not current with his rental payments; or~~

~~(c) — Compliance with an applicable statute, ordinance or regulation requires alteration, remodeling or demolition which would effectively deny the tenant the use of the dwelling unit.~~

(a) Notwithstanding TMC 9.25.030, a landlord may maintain an action to recover possession of the dwelling unit if:

(1) The tenant is using the dwelling unit for an illegal purpose or for a purpose which is in violation of the rental agreement or for nonpayment of rent;

(2) The complaint was caused by the willful actions of the tenant, the tenant's invitee or another person in the tenant's household; or

(3) The landlord seeks to recover possession on the basis of a notice to terminate a periodic tenancy, which notice was given to the tenant before the tenant's complaint.

(b) Notwithstanding TMC 9.25.030, a landlord may increase the rent if:

(1) The rent increase does not conflict with the rental agreement; and

(2) the increase is made in good faith to compensate the landlord for expenses incurred as a result of acts of God, public utility service rate increases, property tax increases or other increases in costs of operation.

96 Section 4. That the Code of the City of Topeka, Kansas, is hereby amended
97 by adding a section, to be numbered 9.25.050, which said section reads as follows:

98 **Penalties; habitual violator.**

99 (a) Notwithstanding TMC 1.10.070, punishment for a violation of TMC
100 9.25.030 shall be as follows:

101 (1) Upon a first conviction, a fine of not more than one thousand dollars
102 (\$1000).

103 (2) Upon a second conviction, a fine of not less than one hundred
104 dollars (\$100) nor more than one thousand dollars (\$1000).

105 (3) Upon a third conviction, a fine of not less than five hundred dollars
106 (\$500) nor more than one thousand dollars (\$1000).

107 (4) Upon a fourth or subsequent conviction, a fine of not less than one
108 thousand dollars (\$1000) nor more than two thousand five hundred dollars
109 (\$2500).

110 In addition to the preceding fines such person may be punished by a term of
111 imprisonment which shall not exceed twelve months, or by both such fines and
112 imprisonment.

113 (b) For the purposes of determining whether a conviction is a first or
114 subsequent conviction in sentencing under this section:

115 (1) Conviction includes being convicted of a violation of TMC 9.25.030
116 and it is irrelevant whether an offense occurred before or after conviction for a
117 previous offense.

118 (2) Conviction includes being convicted of a violation of TMC 9.25.030

119 or entering into a diversion agreement in lieu of further criminal proceedings on a
120 complaint alleging a violation of this section.

121 (3) Any convictions occurring during the three years prior to the date of
122 the occurrence shall be taken into account when determining the sentence to be
123 imposed.

124 (c) Each day that any violation of this ordinance continues shall constitute a
125 separate offense and may be punishable hereunder as a separate violation.

126 Section 5. That original § 9.25.010 through § 9.25.030 of the Code of the City
127 of Topeka, Kansas, are hereby specifically repealed.

128 Section 6. This ordinance shall take effect and be in force on June 1, 2023
129 after its passage, approval and publication in the official City newspaper.

130 Section 7. This ordinance shall supersede all ordinances, resolutions or rules,
131 or portions thereof, which are in conflict with the provisions of this ordinance.

132 Section 8. Should any section, clause or phrase of this ordinance be declared
133 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
134 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

135 PASSED AND APPROVED by the City Council on _____.

136
137 CITY OF TOPEKA, KANSAS

138
139
140 _____
141 Michael A. Padilla, Mayor

142 ATTEST:

143
144
145 _____
146 Brenda Younger, City Clerk



Webpage Link: <https://www.topeka.org/citycouncil/changing-our-culture-of-property-maintenance/#gsc.tab=0>



RESOURCE LIST

Document updated March 2023

HOUSING PROGRAMS

CITY OF TOPEKA

The City of Topeka's Housing Services Division administers several housing rehabilitation programs for both single-family homes and multi-family (rental) homes for the benefit of low-income families. Our wide array of programs can help sustain and revitalize homes to provide decent and safe housing.

HOUSING PROGRAMS AVAILABLE:

- **Property Maintenance Repair:** The Property Maintenance Repair Program assists with repairs for low-income homeowners who need repairs to bring their homes up to code and make the home safe, livable, and healthy. All eligible households must have an active property maintenance violation and be on the deed of the property.
- **Emergency Home Repair:** The Emergency Home Repair Program assists with repairs for low-income homeowners who need repairs to bring their homes up to code and make the home safe, livable, and healthy.
- **Accessibility Program (Barrier Removal):** If you have difficulty entering, leaving, or moving about your home due to a disability, our accessibility program can modify those areas of your home to make them easier to use. Eligible homeowners and renters can receive a one-time grant to assist with some home improvements.
- **Weatherization:** The Weatherization Program is intended to help eligible homeowners make upgrades to their homes.

[Learn more about the City of Topeka's Housing programs](#) or call 785-368-3711.

EQUITY.ACCESS.SHELTER. (E.A.S.)

If you are homeless or at-risk of becoming homeless, you no longer need to contact multiple agencies to receive rent/mortgage assistance. The E.A.S. program can help you access help quickly with a single point of contact. E.A.S. staff will work with you to assess your level of need and connect you with the right resources for your situation.

[Learn more about E.A.S.](#) or call 785-368-9533.

50-50 SIDEWALK REPAIR PROGRAM

The City of Topeka is accepting applications to remove and replace defective public sidewalks through a cost-sharing plan of 50 % paid by the City, and 50% paid by the property owner. Additional funding assistance may be available for those who are income-qualified.

[Learn more or apply for the 50-50 sidewalk program.](#)

COMMUNITY ACTION

Home/Weatherization program

1000 SE Hancock Street
(785) 836-4500

TOPEKA HABITAT FOR HUMANITY

HOME REPAIR PROGRAMS AVAILABLE: Aging in Place, Accessibility Modifications, Rock the Block
121 NE Gordon Street
(785) 234-4322



RESOURCE LIST (cont.)

24-HOUR CRISIS SERVICES

Abuse and Neglect: SRS

1-800-922-5330

Battered Women's Task Force

1-888-822-2983

Valeo Behavioral Health Care

(785) 234-3300

Topeka Rescue Mission

(785) 354-1744

Topeka Police Crime Victim's Assistance Unit

(785) 368-9064

Topeka Police Department

(785) 368-9551

Shawnee County Sheriff's Office

(785) 251-2200

OTHER RESOURCES

PANT Resources - Will hold pets while owners are in Rescue Mission (785) 270-8104

Blue Earth Initiatives, Inc. - Addiction/recovery services for Native Americans (785) 215-8360

Community Action (Emergency service)
(785) 235-9296

Topeka Independent Living Resource Center - Assistance for persons with disabilities
(785) 233-4572

Topeka Housing Authority - Section 8/Public housing (785) 357-8842

Cornerstone of Topeka - Low-cost rental housing
(785) 232-1650

Salvation Army - (785) 233-9648

Hoarding Task Force Reporting - 1-800-922-5330

Let's Help - (785) 234-6208

Doorstep Emergency Services - (785) 357-5341

American Red Cross - (785) 234-0568

Jayhawk Area Agency on Aging - (785) 235-1367

ERC Resource and Referral - (785) 357-5171

Community Resources Council - (785) 233-1365
CRC Resource Directory

Housing and Credit Counseling - (785) 234-0217
HCCI Community Resource Guide

Family Resource Center - (785) 354-8902

City of Topeka Property Maintenance Division
785-368-3161
Report issues via SeeClickFix



RESOURCE LIST (cont.)

HOME IMPROVEMENT, SUPPLY STORES & LUMBERYARDS

Harbor Freight

230 SE 29th Street
(785) 234-8095

Restore - Topeka Habitat

121 NE Gordon
(785) 783-7670

Roach Hardware

1321 SW 21st Street
(785) 233-9606

Roach Hardware

230 NW Lyman Road
(785) 232-7748

Tarwater Farm & Home Supply

710 NE US HWY
(785) 233-4211

Tractor Supply Company

5236 SW Topeka Blvd
(785) 862-0216

Tractor Supply Company

710 HWY 24 East
(785) 233-4211

Westlake Ace Hardware

5001 SE 29th Street
(785) 272-0731

Westlake Ace Hardware

2075 SE 29th Street
(785) 266-3878

Westlake Ace Hardware

2050 NW Topeka Blvd
(785) 357-7005

Lowe's

1621 SW Arvon Place
(785) 273-0888

Home Depot

5900 SW Huntoon Street
(785) 272-5949

Menard's

6401 SW 17th Street
(785) 273-3115

McCray Lumber

715 SE 4th Street
(785) 357-0321

Sutherlands

2210 NW Tyler Street
(785) 232-3900

Midway Wholesale

218 SE Branner Street
(785) 232-4572

HOME IMPROVEMENT WORKSHOPS

Home Depot Virtual Workshops

Free interactive livestream workshops. Home Depot associates can help take on projects and teach you how to care for different areas of your home.

(785) 272-5949

Lowe's Workshops

In-store events, livestreams and on-demand content, all for free.

(785) 273-0888



RESOURCE LIST (cont.)

TOOL RENTAL

Topeka Habitat for Humanity Tool Bus

121 NE Gordon
785-234-4322

Home Depot - Tool and Truck Rental

5900 SW Huntoon St.
785-272-5949

Menard's Tool Rental | Truck Rental

6401 SW 17th St.
785-273-3115

Lowe's Tool Rental

1621 SW Arvon Pl.
785-273-0888

Sunflower Rental

2010 SW Topeka Blvd.
785-233-9487

United Rentals

5830 SW 19th Terrace
785-272-6006

Kansas Rental

5966 SW 29th Street
785-272-1232

VOLUNTEERS

United Way of Kaw Valley Volunteers

Property owners seeking volunteers can create an opportunity.

MORE RESOURCES

Get access to more resources, including how-to videos, by visiting the [Changing Our Culture of Property Maintenance website](https://bit.ly/TopekaCOCPM).

Utilize [Facebook](#), [Nextdoor](#), and other social media groups to find resources, contractors and/or collect references.

For the most up-to-date version of this document or to access links digitally, please visit <https://bit.ly/TopekaCOCPM> or scan the QR code.





CITY OF TOPEKA



Changing Our Culture of
Property Maintenance



“HOW TO” HELP FOR MOWING

FINDING SOMEONE TO MOW



<https://www.lawnstarter.com/blog/lawn-care-industry/7-things-look-hiring-lawn-care-company/>

<https://www.youtube.com/watch?v=vnV6m-fjs0w>

MOWING & LAWN CARE



<https://www.youtube.com/watch?v=go0yKJK6no0>

<https://www.youtube.com/watch?v=dDN7bApxnFk>

CLEARING & TRIMMING



<https://www.youtube.com/watch?v=QIH3zl5NN10>

<https://youtu.be/p4Y9Q3HuAY0>

LAWN MOWER MAINTENANCE



<https://www.doitbest.com/resources/articles-and-buying-guides/articles/lawnmower-maintenance-101>

<https://www.youtube.com/watch?v=j81MVf6VVVo>

SAFETY GEAR

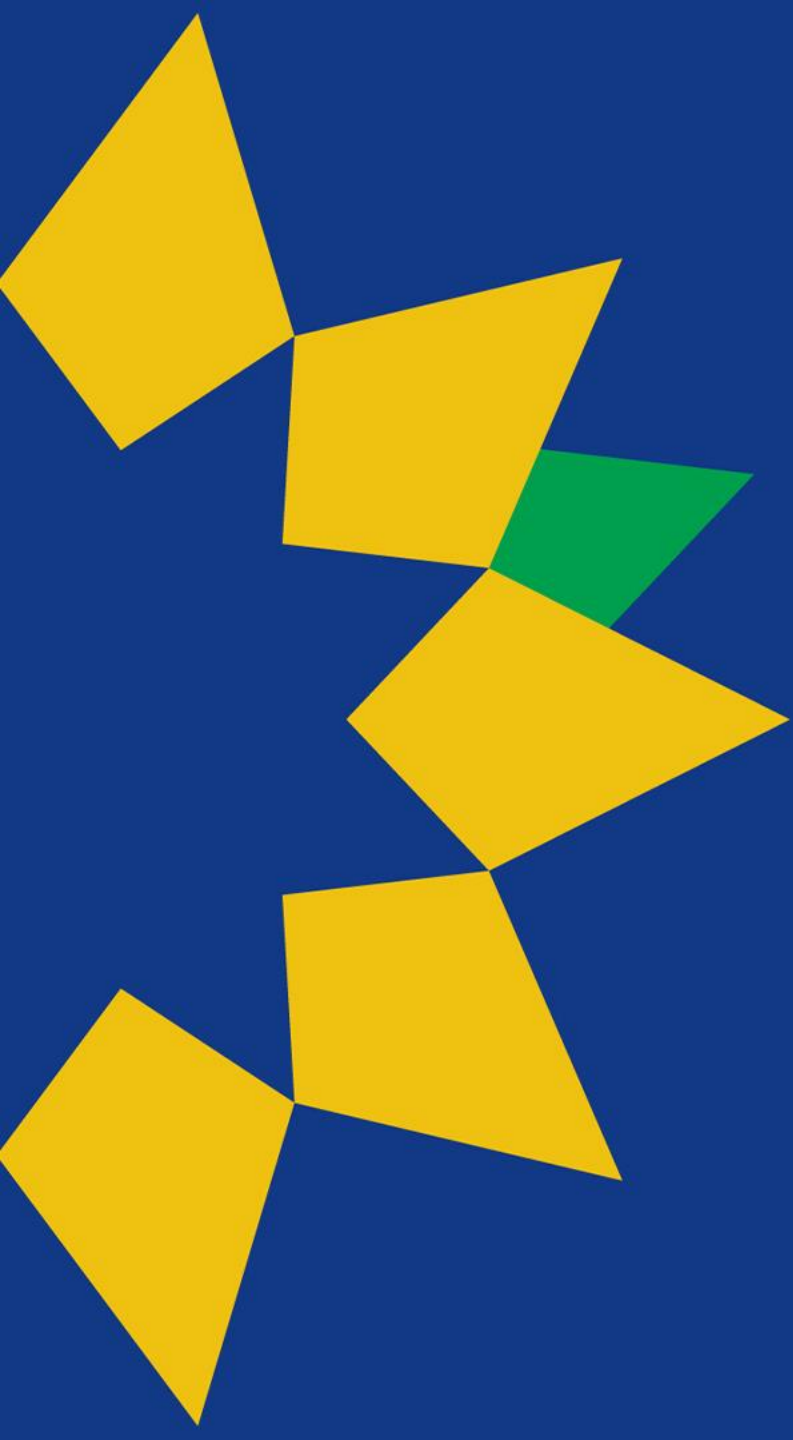


<https://www.youtube.com/watch?v=iJ7qZyoQjMM>

OIL - WHAT KIND TO USE?



https://www.youtube.com/watch?v=sxn4_F8PUWM



**CITY OF
TOPEKA**



Changing Our Culture of Property Maintenance

Mowing Initiative - Public Information Sessions

Welcome!

2

- Introductions
- Jump in with comments and questions at any time



Presentation overview

3

4-6 | Initiative overview

7 | Partner example

8-9 | How to volunteer/organize a volunteer group

10 | Community resources

11 | We need you!

12 | Questions?

13 | Giveaways



Initiative overview

4

- Five-year initiative (2022-2026)
- Objectives include:
 - Improve property condition
 - Reduce substandard housing
 - Motivate property owners to care for their properties
 - Encourage investment in vacant and deteriorated properties
- Action focus! 2022 and 2023 - MOWING!



Initiative overview continued

5

- A look back from year one as we move into year two!



Initiative overview continued

6

- This year, as we continue to focus on mowing, we're aiming to expand volunteer engagement
 - There is a need in our community for mowing – and volunteers can help fill that need!
 - How can you, your group/organization/neighborhood get involved? Stay tuned!
- Initiative partners:
 - The City of Topeka
 - The Greater Topeka Partnership
 - United Way of Kaw Valley / Topeka Volunteers
 - Omni Circle Group
 - Gil Carter Initiative



Partner example – Omni Circle Group

7

- Came on in year one as a partner
- Offering free/volunteer mows to those in the Central Park Neighborhood Improvement Association (NIA)
- In 2022 – Omni completed 194 mows in Central Park!



How to volunteer/organize a volunteer group

8

- Sign up directly through Topeka Volunteers:
 - <https://unitedwaytopeka.galaxydigital.com/>



- Do it yourself!
 - Meet with your Neighborhood Improvement Association (NIA) or Neighborhood Association (NA) to figure out what works best for your area
 - “Adopt My Block”
 - Volunteer sign up form
 - Door to door
 - Utilizing social media (Nextdoor)



- We are here to help!
 - The City of Topeka/Community Engagement are your liaison to information **785-368-4470**
 - Neighborhood Officers contact info
 - Neighborhood map
 - Other helpful community resource information
 - Get in touch with us:   **bit.ly/TopekaCOCPM**
 **785-368-9530**
 - You can also email us at: cocproperty@topeka.org
- Very important – if you volunteer – we want to know about it so we can recognize you! Contact us through any of the above ways.



- We've developed various resources for you to take back to your neighborhoods
 - Community Resource List/Guide – also available in Spanish
 - Mowing Tip Sheet
 - Adopt-A-Block Handbook
 - Flyer – also available in Spanish



We need you!

11

What can you commit to doing this year
to clean up your yard, and help a
neighbor with theirs?



What questions, comments or ideas do you have?



- We want to help give you and your neighbors the tools to be successful!
- Thanks to generous donors, we're giving away a mower at each of our public information sessions.
- Lawn generously mowers donated by:
 - City of Topeka Community Engagement Division
 - Representative John Alcala
 - Tonantzin Society
- Other surprise giveaways!



CoCPM Vacant Properties Challenge –PHS Committee May 2023 – Short version (detailed list available)

Aspirational Goal from CoCPM Initiative

Private Owners (Vacant Lots and Structures) – Number, Status – What is the Problem? What are the solutions?

Interdepartmental

Property Maintenance Division

Vacant Property Registry

Fire Department and Fire Marshal

Police Department

Shawnee County Tax Sales

KSA _____ - Tax Sale pre-sale option for nonprofits

Transfer/Incentive/Repair/Infill Programs – actual and possibilities

Homeless-related Issues (14 code-related plus camping and services) – Link to Initiative

Other items from Karen Black/May8Consulting - Discussion and Recommendations

Other items from Public 2020 Public Input process

**CoCPM Vacant Properties Challenge – List of Policies/Issues to explore for effectiveness, cost-effectiveness, improvements, dropping, alternatives
PHS Committee May 2023**

Aspirational Goal from CoCPM Initiative: Improve the quality of structures and premises in Topeka Kansas so that structures and premises violations are the exception rather than the rule. Our number of substandard properties is never over 500. Owners are motivated to take care of properties before City Departments are even called. (See initiative for specific 2022-2026 performance measures.)

Private Owners – Number of vacant properties with and without structures...therefore market and availability. Assess the status of safety, security, maintenance, payment of taxes and other obligations and barriers, if any, that seem to be getting in the way of sales or other transfers. Goal: What is the problem? What is best package for solutions?

Interdepartmental

Listing

Sharing Problem Properties and Action

Sharing Surveillance and Access

Property Maintenance Division

Securing

Property Maintenance Code Issues (including Vegetation and Mowing)

Demolitions

Surveillance

Current practices of writing up, following up, assessing fees and fines (i.e to property or personally, at department level and after court and collections)

Education about Mothballing

Vacant Property Registry

Foreclosures

Current practices of assessing fees and waivers

Other

Fire Department and Fire Marshal

Fires

Securement

Demolitions

Inspections

Authority and Action to clear combustibles

Surveillance

Current practices of writing up, following up, assessing fees and waivers

Police Department

Trespassing

Action

Proof of Residency

Securing

Surveillance

Current practices of ticketing, assessing fees, and waivers

Shawnee County Tax Sales

Frequency

Response to requests

Effectiveness

KSA _____ - Tax Sale pre-sale option for nonprofits

Transfer/Incentive/Repair/Infill Programs – actual and possibilities

CHDOs/nonprofits

City programs (past, current and considered)

Development/Transfer Options

Other models and options (including various land bank options)

Homeless-related Issues (14 code-related plus camping and services) – Link to Initiative

Other items from Karen Black/May8Consulting - Discussion and Recommendations (Full report linked on CoCPM webpage and on CoCPM Work Plan)

Other items from Public 2020 Public Input process (8-page summary doc and full detail linked on CoCPM webpage)

TABLE OF CONTENTS

Page 2	Executive Summary
Page 5	Introduction
Page 8	Current Code Enforcement Process – A Brief Summary
Page 13	Code Enforcement by the Numbers – What the Data Tells Us
Page 19	Key Findings and Recommendations
	<ol style="list-style-type: none">1. <u>Create Two Alternative Enforcement Paths for Low-Income Homeowners and Chronic Violators and Strengthen Standard Enforcement</u>2. <u>Prioritize Unsafe and Unsanitary Conditions Within Rental Properties</u>3. <u>Educate Owners and Tenants About their Rights and Responsibilities and Work with the Community</u>4. <u>Use City Abatement Resources Strategically</u>5. <u>Identify, Register and Take Action to Reactivate Long-Term Vacant Problem Properties</u>6. <u>Welcome Investment by Providing Clear Rules for Repairs an Owner Can Perform</u>7. <u>Strengthen Data Collection and Analysis</u>8. <u>Update Job Descriptions for Inspectors to Lower Turnover and Improve Customer Service Skills, Hire A Housing Navigator, and Consider an Additional Support Staff Member</u>9. <u>Expand Multi-Family Common Area Fire Safety Inspections</u>10. <u>Transfer Tax Delinquent Vacant Properties to Responsible New Owners at Tax Sale</u>11. <u>Record Contract for Deeds as First Step to Increasing Transparency of Process that Often Harms or Defrauds Buyer</u>
Page 53	Metrics for Monitoring Success
Page 54	Conclusion

EXECUTIVE SUMMARY

WHAT:

Topeka has launched an ambitious initiative to create a culture of property maintenance throughout all of its neighborhoods. The goal for this initiative is an improved and thriving city where all neighborhoods are safe and healthy, and all residents live in decent and safe homes. The focus for this report, released in the first year of this initiative, is to better understand how city government can support better property maintenance and lift up the quality of property condition through equitable and effective code enforcement.

WHY:

Code enforcement is a critical tool to address the harms that problem properties impose on residents and their neighborhoods. Code enforcement inspectors are first responders who seek to identify unsafe and deteriorating conditions before they result in harm to people or loss of a property. Topeka seeks to enforce their laws requiring that owners keep their properties in safe and sanitary condition inside and out in a way that uses fewer government resources, is more equitable, does not burden good owners and works in partnership with community. This is particularly important as larger investors buy up the city's rental housing at an unprecedented rate and a small number of landlords are not providing a safe, sanitary place to live.

WHO:

Creating a culture of property maintenance requires a robust partnership with non-profits, business, and community to jointly encourage, require and assist residents to improve their property condition. Extensive studies show that repairing homes improves health, protects property values, and reduces crime. In fact, one recent study found that when one home gets a structural repair such as a new roof, total crime dropped by 21.9% on the block. Home repairs can improve the health of families living in a home and reduce health care costs and reactivating long term abandoned properties restores property values to neighboring properties on the block.

HOW:

The report details how Topeka is currently implementing code enforcement and offers 11 recommendations to make code enforcement more equitable and effective.

FINDINGS:

Key findings of a data analysis of code enforcement efforts for the time period from 2015-2021 include:

- Property Maintenance opened approximately 50,000 code enforcement cases on 22,000 properties. 28% of the properties with cases are owned by Limited Liability Corporations (LLCs). Nine out of ten of the owners with the most cases are LLCs.
- Almost 80% of the cases are inspector initiated and focus on exterior conditions that the inspectors can see from the public right of way. A little over 20% of complaints come from tenants, neighbors, other city departments and City Council members.
- Property Maintenance conducts an average of 18,000 inspections annually – each case requires an average of three inspections. Over 60% are for weed and sanitation violations.
- Property Maintenance performed about 8000 abatements to mow high weeds or remove trash or junk from a yard. 17% of properties received more than one abatement. The city recovered 64% of abatement costs from owners.

EXECUTIVE SUMMARY

Topeka can create a more effective, equitable code enforcement system by implementing the eleven recommendations listed below:

- 1. Create Two Alternative Enforcement Paths for Low-Income Homeowners and Chronic Violators and Strengthen Standard Enforcement.** Low-income homeowners are often the focus for code violations because many lack the resources to maintain the exterior of their homes. These owners need help to fix up their property. On the other hand, large professional landlords who are chronic violators need to know that they will be held responsible for unsafe or unsanitary conditions on their rental properties. Creating alternative enforcement paths for low-income homeowners and large rental property investment companies will help Topeka government to target limited enforcement resources to the worst offenders and assist compliance among owners who do not have the money to improve their property.
- 2. Prioritize Unsafe and Unsanitary Conditions Within Rental Properties. The city has entered and inspected less than 1% of rentals.** Yet there is a strong consensus by housing providers, landlords and community leaders that some landlords are renting illegal non-code compliant units to vulnerable tenants who may not know their rights to habitable and safe housing. Code enforcement relies upon tenant complaints to identify rental properties that are unsafe or unsanitary, because under Kansas law it is the tenant who must consent to have Property Maintenance inspectors enter the interior of the property. By removing bureaucratic requirements, strengthening protections against retaliatory eviction, partnering with nonprofits, and creating new policies to avoid tenant displacement, the city can better ensure tenants can enforce their legal right to a rental unit with adequate heat, light, and ventilation; working plumbing; secure windows and doors; and proper sanitation.
- 3. Educate Owners and Tenants About their Rights and Responsibilities and Work with the Community.** The best way to achieve compliance is to inform owners and tenants what the city's laws require so they can avoid ever receiving a violation notice. Topeka needs to ramp up the education component of its code compliance to prevent violations before they happen. All educational materials, forms, and notices should be available in Spanish and English.
- 4. Use City Abatement Resources Strategically.** The city performed 8000 abatements with public tax dollars from 2015-2021. The city can use limited abatement resources more strategically if it can respond swiftly where violations on a property with a prior abatement begin to appear, pilot owner incentives to encourage owners to abate conditions themselves and amend fee waiver policies.
- 5. Identify, Register and Take Action to Reactivate Long-Term Vacant Problem Properties.** Topeka is unsure how many long-term vacant properties there are in the city. The city does know that vacant houses attract crime, vandalism, blighting impacts and costs the city over \$30,000 more in fire, police, property maintenance and other services per city block compared to those without an abandoned house. While lack of occupancy, even for an extended period, does not by itself mean that the property is not code compliant, long-term vacancy predictably leads to neglect and decay. The city needs to identify and register its vacant properties, provide clear minimum standards for securing and protecting them and inspect abandoned properties for hazards. The city should also continue to explore whether the creation of a land bank is needed to reactivate vacant and abandoned properties.

EXECUTIVE SUMMARY

6. **Welcome Investment by Providing Clear Rules for Repairs an Owner Can Perform.** Investor owners are required to pay licensed contractors such as electricians and plumbers to complete the rehabilitation of a house and this increases the cost. The city should clarify rules for repairs owner can perform and those that must be completed by a licensed contractor to help small developers control costs when rehabilitating and repairing single family homes for rental.
7. **Strengthen Data Collection and Analysis.** Having the right data can help the city to strategically direct resources to the most effective use, show a pattern of violations to the court, and measure outcomes. It also allows the city to identify the types of violations that take up the bulk of limited staff resources, to understand the timeframe for complaint inspection and enforcement and to identify who the owners are of noncompliant parcels. The city should improve their data collection to track cases by property type, owner type, enforcement approach, compliance, and other outcomes.
8. **Update Job Descriptions for Inspectors to Lower Turnover and Improve Customer Service Skills, Hire A Housing Navigator, and Consider an Additional Support Staff Member.** Like many cities, Topeka has a shortage of code enforcement inspectors due to a tight job market, high turnover, and the lack of a comprehensive strategy for recruiting and retaining staff. In addition, it needs staff dedicated to working with owners with a financial hardship to connect them to resources and build trust with the community. The city will benefit by updating its inspector job description and adding a housing navigator position to work with owners with a financial or medical hardship.
9. **Expand Multi-Family Common Area Fire Safety Inspections.** The Fire Department has performed voluntary inspections of the common areas of 953 multifamily buildings since 2017 to ensure that they are fire safe. This program should be institutionalized and expanded to ensure that tenants do not die unnecessarily in fires in Topeka where 82% of fires since 2002 were in residential buildings.
10. **Transfer Tax Delinquent Vacant Properties to Responsible New Owners at Tax Sale.** Shawnee County has discretion as to whether to bring some tax-delinquent vacant Topeka properties to tax sale. It has brought 158 Topeka tax parcels to tax sale in the five tax sales held since 2016. This recommendation includes two actions that will encourage the county to bring more properties to tax sale and ensure they are bought by qualified, responsible new owners without a history of code violations.
11. **Record Contract for Deeds as First Step to Increasing Transparency of Process that Often Harms or Defrauds Buyer.** Topeka leaders report that contracts for deed or rent-to-own contracts make up a growing segment of homebuying contracts in the city. Under a contract for deed, the owner/landlord is the seller and the tenant is the buyer. The buyer makes regular payments to the seller, but the deed does not transfer until the final payment. The challenge is that many contract for deed arrangements are set up so the buyer will never actually become owner of the property and some “sellers” are not the legal owner resulting in fraud. By requiring contract for deeds to be recorded with the County Register of Deeds, the county could take a first step to stop these abuses.

INTRODUCTION

Topeka has launched an ambitious initiative to create a culture of property maintenance throughout all of its neighborhoods. This is an important five-year initiative for Topeka that requires a robust partnership with non-profits, business, and community to jointly encourage, require and assist residents to improve their property condition. The goal for this initiative is an improved and thriving city where all neighborhoods are safe and healthy, and all residents live in decent and safe homes. **The focus for this report, released in the first year of this initiative, is to better understand how city government can support better property maintenance and lift up the quality of property condition through equitable and effective code enforcement.** Code enforcement is a critical tool to address the harms that problem properties impose on residents and their neighborhoods. Code enforcement officers or inspectors are first responders who seek to identify unsafe and deteriorating conditions before they result in harm to people or loss of a property. Topeka seeks to enforce their laws requiring that owners keep their properties in safe and sanitary condition inside and out in a way that uses fewer government resources, is more equitable, does not burden good owners and works in partnership with community.

The time for a change to the culture of property maintenance is now. Topeka leaders view this as an urgent priority and for good reason.

- **Larger investors are buying up the city's residential properties at an unprecedented rate.** National Wall Street investors and local companies are buying up hundreds of single-family homes for rental attracted by the city's low purchase prices.¹ A single out of town investor purchased more than thirty multifamily properties in recent years.² In Kansas investors bought a quarter of all single-family homes that sold last year and drove up rents while often letting conditions deteriorate.³ When a small set of large-scale private landlords buy up much of the city's existing low-income rental housing and keep them in disrepair, the city suffers.
- **Topeka has more houses than households.**⁴ The city has approximately 60,000 total housing units and 54,000 households.⁵ 72% of housing units are single-family houses and only 22% are multifamily buildings with three or more units. Multifamily buildings with more than five units offer 13,200 rental units or 28% of total rental units in the city.⁶ The housing stock is aging with a median age of 56 years old and needs repair.⁷

¹Kriston Capps and Sarah Holder, Wolf of Main Street, Bloomberg US Edition (March 3, 2022). <https://www.bloomberg.com/graphics/2022-evictions-monarch-investment-rental-properties/>

²For example, Lew McGinnis and his LLC Eucalyptus Real Estate owns 10% of the city's rental stock and is known for problem-plagued apartment buildings. Oklahoma City-based real estate developer Lew McGinnis needs to answer for condition of his Topeka apartments, Editorial Advisory Board, Topeka Capital Journal (September 3, 2021) <https://www.cjonline.com/story/opinion/2021/09/03/developer-lew-mcginnis-must-answer-condition-topeka-apartments/5692637001/>.

³Tim Henderson, Investors Bought a Quarter of Homes Sold Last Year, Driving Up Rents, Stateline (July 22, 2022) (25% of homes in Kansas were bought by investors) <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/07/22/investors-bought-a-quarter-of-homes-sold-last-year-driving-up-rents>; Geoff Rose, Differences in Urban Residential Property Maintenance by Tenure Type, March 2019; Travis, A. 2019. The Organization of Neglect: Limited Liability Companies and Housing Disinvestment. American Sociological Review, 84(1) (transition of rental property ownership from an individual owner to an LLC owner is associated with an increase in disrepair); and Fay Walker, Housing & Landlords: Using Open Data to Find Substandard Conditions, Azavea (September 26, 2019) <https://www.azavea.com/blog/2019/09/26/housing-landlords-using-open-data-to-find-substandard-conditions/> (study shows corporate owners – largely LLCs – are more likely to rent housing with unsafe or hazardous conditions, more likely to be renting without a license. For every additional LLC-owned property in a block group, there was a .86 increase in hazardous violations.)

⁴U.S. Census Bureau 2020 data.

⁵U.S. Census Bureau 2021 data. <https://www.census.gov/quickfacts/fact/table/topekacitykansas/HSG010221#HSG010221>

⁶U.S. Census Bureau (2016-2020). Units in Structure American Community Survey 5-year estimates. https://censusreporter.org/data/table/?table=B25024&primary_geo_id=16000US2071000&geo_ids=16000US2071000,05000US20177,31000US45820,04000US20,01000US; Total Population in Occupied Housing Units by Tenure by Units in Structure, ACS 2020 5-year https://censusreporter.org/data/table/?table=B25033&geo_ids=16000US2071000&primary_geo_id=16000US2071000#valueType|percentage

⁷2019 analysis by the Federal Reserve Bank of Philadelphia and PolicyMap found maintenance needs were highest for older properties occupied by lower-income households.

INTRODUCTION

- **Preserving housing is critical as little new affordable housing is being built.** Repairing existing homes is a key part of Topeka's housing strategy because few "starter homes" are being built and it can cost ten times more to build a new unit than it takes to rehabilitate an existing unit. Topeka has a median household income of just \$50,000.
- **Sustaining homeownership is important to neighborhood stability and city prosperity.** Many owners will not be able to pass down their houses to the next generation without immediate repairs. 59% of housing units are owner occupied with a median value of just \$105,700. Supporting these homeowners is critical to the health of neighborhoods and the city.
- **Investment in houses is contagious.** Once investors and homeowners are comfortable rehabilitating houses knowing they will see a good return on their investment, more investment will follow.

The challenge is clear. A drive through many neighborhoods shows too many homes with gutters hanging or porches falling. Yards have become makeshift scrapyards in residential neighborhoods. Vacant houses and buildings dot virtually every neighborhood. These deteriorating and vacant properties increase crime, lower property values, and foster a lack of maintenance and investment.⁸

By agreeing to work together to improve houses and neighborhoods, Topeka will benefit all who live, work and visit. Extensive studies show that repairing homes reduces crime. In fact, one recent study found that when one home gets a structural repair such as a new roof, total crime dropped by 21.9% on the block.⁹ Home repairs can improve the health of families living in a home and reduce health care costs.¹⁰ They have also been found to improve children's developmental growth and kindergarten readiness.¹¹ And restoring long term abandoned properties restores property values to neighboring properties on the block.¹²

Eileen Divringi, Eliza Wallace, Keith Wardrip and Elizabeth Nash, Measuring and Understanding Home Repair Costs (2019) <https://www.philadelphiafed.org/community-development/housing-and-neighborhoods/measuring-and-understanding-home-repair-costs>; Natalia Siniavskaja, Operating Costs of Owning a Home, National Association of Home Builders (January 2021) (Maintenance costs increase with age of housing.) <https://www.nahb.org/-/media/NAHB/news-and-economics/docs/housing-economics-plus/special-studies/2021/special-study-operating-costs-of-owning-a-home-january-2021.pdf>

⁸Financial Impact of Blight on the Tri-COG Communities, Delta Development Group (September 2013) <https://tcvcog.com/wp-content/uploads/2020/04/TCLB-Blight-Impact-Full-Report.pdf> downloaded July 26, 2022;

Vacant Land Management in Philadelphia, Greater Philadelphia Redevelopment Authority (November 2010) <https://www.may8consulting.com/vacant-land-management-in-philadelphia/> downloaded July 26, 2022.

⁹South EC, MacDonald J, Reina V. Association Between Structural Housing Repairs for Low-Income Homeowners and Neighborhood Crime. JAMA Netw Open. 2021;4(7):e2117067. doi:10.1001/jamanetworkopen.2021.17067

¹⁰Hayes, Elizabeth, Stable housing is a great Rx for better health, Portland study finds (Feb 29, 2016)

Pairing access to affordable housing with health care services leads to a significant reduction in Medicaid expenditures, a comprehensive new Portland study found. <https://www.bizjournals.com/portland/blog/health-care-inc/2016/02/stable-housing-is-a-great-rx-for-better-health.html> downloaded on July 26, 2022.

Turcotte DA, Alker H, Chaves E, Gore R, Woskie S., Healthy homes: in-home environmental asthma intervention in a diverse urban community, Am J Public Health. 2014 Apr;104(4):665-71. doi: 10.2105/AJPH.2013.301695. Epub 2014 Feb 13..

¹¹Alexia Fernández Campbell, How a House Can Shape a Child's Future (June 29, 2016) <https://www.theatlantic.com/business/archive/2016/06/how-a-house-can-shape-a-childs-future/489242/> downloaded July 26, 2022.

¹²The Economic Case for Fixing Blight, Econsult Solutions (March 25, 2016); Strategic Property Code Enforcement and its Impacts on Surrounding Markets, Strategic Property Code Enforcement and its Impacts on Surrounding Markets, Reinvestment Fund (2014) https://www.reinvestment.com/wp-content/uploads/2022/02/Strategic_Property_Code_Enforcement-Report_2014.pdf downloaded July 26, 2022.

INTRODUCTION

May 8 interviewed over 50 local leaders and stakeholders in defining this action plan. There is a broad consensus that improving the good repair and maintenance of homes in Topeka is critical. Topeka leaders and residents have been extremely generous in sharing their experience with property maintenance as property owners, renters, advocates, residents, city staff and elected officials. This report is grounded in their insights, stories, and suggestions.

May 8 also analyzed city administrative and court data for the six-year period from 2015 to 2021. This locally provided data revealed a city that is working hard to work with owners and to cite owners who fail to fix up the exterior of their houses. From 2015-2021, there were approximately 50,000 (49,118) cases opened by Property Maintenance. Almost 80% of the cases are inspector initiated and focus on exterior conditions that the inspectors can see from the public right of way.¹³ A little over 20% of complaints come from tenants, neighbors, other city departments and City Council members. This is notable because the number and percent of public complaints is much lower than many cities experience. For example, in Chicago from 2006-2015, 73% of complaints were initiated by neighbors or residents and tenants were far more likely to file a complaint when their rental housing had no heat, no water, holes in the walls or other living conditions that impact their health.¹⁴ In Topeka, the most cited property maintenance issues are exterior sanitation and weeds violations.¹⁵

Learning from other cities who have put in place new laws, processes, and programs to improve property maintenance will help Topeka to address problem properties effectively, equitably, and efficiently. Throughout the country, cities are adopting and implementing new legal tools and code enforcement approaches. Topeka is currently using many of these. Several of the high impact interventions that Topeka is not using are prohibited by state law such as requiring rental licensing or proactive inspections of rental units. This assessment shares best practices from other cities that are relevant to Topeka's decision-making process. Where possible, programs from smaller peer cities guide the recommendations in this report, but often researchers who evaluate the effectiveness of code enforcement innovations look exclusively at larger cities such as Baltimore, Philadelphia, or Minneapolis. In order to take advantage of these objective evaluations of impact and feasibility, programs in these larger cities are shared. This action plan ends with a series of metrics or data points that the city can use to track the impact of changes it puts in place.

Significantly Topeka is doing many things right to equitably and effectively enforce the Property Maintenance Code. The city:

¹³The prevalence of inspector initiated complaints found in the data may also be due to inspectors not adding the source of complaints but instead entering the data as if the inspector identified the violation. Property Maintenance is going to request that inspectors note all contacts including the source of the complaint from this point on and the city should circle back and recalculate these percentages in six months to see if that action made a difference.

¹⁴[Going Easy and Going After: Building Inspections and the Selective Allocation of Code Violations](https://journals.sagepub.com/doi/abs/10.1111/cico.12392)

R Bartram City & Community 18 (2), 594-617 (2019). <https://journals.sagepub.com/doi/abs/10.1111/cico.12392>; The most frequent code violations in Chicago, for example, are insufficient heat, lack of smoke and carbon monoxide detectors, failure to keep interior walls and ceilings free from cracks and holes, insects, and issues

with porch systems, windows, roofs, gutters and downspouts, and exterior walls. (Chicago Department of Buildings. 2016. "Top Ten Building Code Violations" <https://twitter.com/AMesseSupply/status/747451967782289413> Accessed June 24, 2022).

¹⁵Topeka is innovating to more effectively address tall grass, weeds, and other overgrown vegetation as a separate part of this initiative. This assessment does not provide detailed findings or recommendations on these issues.

INTRODUCTION

Has the foundational codes and laws in place that are necessary to affirmatively require owners to maintain and care for their properties including the ICC 2012 International Property Maintenance Code.

Conducts a mix of complaint driven and proactive inspections where inspectors find violations rather than relying solely on complaints..

Focuses code enforcement activity on achieving owner compliance, not punishment.

Codified their process in a series of Standard Operating Procedure memos and flow charts.

Provides legal notice to property owners of violations.

Tracks and monitors status of violations with reinspections.

Abates graffiti, sanitation, and vehicle cases routinely rather than allowing blighting conditions to remain indefinitely.

Maintains data on cases in MyGov to allow for tracking, performance assessment and understanding how limited resources are being used.

Established SeeClickFix as an easy-to-use online complaint system.

Has both a criminal court and civil Administrative Hearing process with Judges knowledgeable about code enforcement.

Offers home repair grants to some low-income homeowners with code violations they cannot afford to fix.

Has critical nonprofit partners who work with homeowners and tenants to improve their living conditions.

CURRENT CODE ENFORCEMENT PROCESS – A BRIEF SUMMARY¹⁶

Code enforcement in Topeka depends upon the work of the city Property Maintenance and Law Departments. The Property Maintenance Department has nine inspectors, an Administrative Supervisor, a Field Supervisor, two abatement staff and three support staff when all positions are filled. (There has been significant staff turnover and difficulty replacing inspectors during the time period analyzed.) Inspectors are assigned a specific geographic district where they are responsible for proactively identifying exterior violations, responding to complaints from the

¹⁶The City of Topeka has detailed its standard operating procedures at <https://www.topeka.org/tpd/property-maintenance-division/standard-operating-procedures/> and flowcharts at <https://www.topeka.org/tpd/flowchart/>, documenting adopted process and procedures. While these very detailed descriptions of procedures informed this assessment, this section presents a short summary of the process to provide important context for the reader.

CURRENT CODE ENFORCEMENT PROCESS

public about interior and exterior violations, requesting and serving administrative warrants for abatement, and working with owners to understand and comply with the code. There is one exception, an inspector assigned to Special Structures Unit who deals with unsafe structures and demolitions citywide. Most cases where the owner fails to bring the property into compliance go to the City Law Department to coordinate prosecution in Municipal Court if it is a housing code violation or to file for an administrative warrant in District Court to enter private property and abate conditions where it is a sanitation or vehicles case. Where the inspector identifies a potentially unsafe structure, the owner of that property is called before an Administrative Hearing Judge to determine whether the property should be demolished under a legal guideline that repair costs to make it safe are more than 30% of the property's value as established by the county.¹⁷

Topeka's code enforcement process is well-documented. The city has many of the fundamentals in place to effectively enforce the code including a code enforcement process that can (1) properly and systematically identify code violations, (2) notify the owner of these violations, (3) track properties for compliance, and (4) act where there is not compliance.

STEP ONE: IDENTIFYING CODE VIOLATIONS

Topeka places its violations in six different categories: Sanitation¹⁸, Weeds¹⁹, Inoperable Vehicles²⁰, Graffiti, Housing²¹ and Unsafe Structures²². The city identifies most code violations proactively. Almost 80% of code violations are identified by inspectors driving through the city who see exterior conditions that violate the code from the public right of way. Twenty two percent of complaints are lodged by tenants, neighbors, City Councilmembers, and other city departments. Public complaints may be received by phone, over social media (e.g., Facebook or Next Door) or through SeeClickFix, a digital complaint app that allows Topeka residents to file attributed or anonymous complaints. City staff assert that public complaints are prioritized, and they endeavor to respond to a complaint by the public within 48 hours. Data shows that there is an average of three days between complaint and inspection.²³ The data does not permit a distinction between complaints initiated by the inspector or the public, although most cases initiated by inspectors are inspected on the day the case is opened.

When inspectors respond to a complaint, the inspector will view what they can from the public right of way (road or sidewalk) and then if there is an identified complainant, an inspector may request access to view the potential violation from privately owned land. An inspection of the interior of a property living space must be performed with the consent of the tenant living there under Kansas law. Currently an inspector requires the tenant to provide written consent to enter and for the tenant to explicitly waive their right to "insist on an Administrative Search Warrant". Where a neighbor complains about an exterior

¹⁷TMC 8.60.110.

¹⁸Sanitation violations include tires, trash and debris, scrap metal and stagnant water.

¹⁹Weeds violations include grass and weeds that exceed 12 inches in height. New legislation in 2022 included trees and shrubs within this violation category.

²⁰Inoperable vehicles include vehicles parked in the yard or on unimproved surfaces on private property that are unlicensed and have missing or broken parts (flat tires, broken windshields) that make them undrivable. (Topeka Municipal Code Section 10.60.120)

²¹Housing violations include conditions that may cause the house to be structurally unsound or no longer weather tight against the elements. Common violations include broken roofs, gutters, and windows on the exterior or leaking ceilings or no water or electricity on the housing interior.

²²Unsafe structures are unfit for human occupancy and result in a condemnation order.

²³Given that for the majority of cases, the complaint is opened, and the property is inspected on the same day, it is unclear the average timeframe between a complaint from a tenant and a city response.

CURRENT CODE ENFORCEMENT PROCESS

violation such as a backyard filled with tires, this may mean asking permission to go onto the neighbor's property to view the conditions. The inspector takes photos of all conditions that violate the code and fills out a short report at the scene. The inspector may or may not speak to the owner or tenant or leave a door hanger notifying the owner that they were at the property and found a violation. Similarly, the owner may or may not inspect the surrounding properties for violations depending upon whether the inspector has the time that day to do so. The inspector is responsible for inputting information about the cases into MyGov, the city's code enforcement database.

STEP TWO: NOTIFYING OWNERS OF VIOLATIONS - DUE PROCESS

- **Informal or Courtesy Notice:** The inspectors may provide some owners with an informal notice of the violation through an in-person conversation, a phone call, or a door hanger – this is an advisory notice letting the owner know that a violation exists and asking them to remedy the violation. In addition, the city issues courtesy notices for peeling paint during the winter months where they give owners until the Spring to address identified violations and do not open the case for 120 days. Finally, the inspector has the discretion to “monitor” a violation without citing it. For example, where there is a couch in the front yard, the inspector may take a picture and return seven days later to see if it is still there and if so, issue a formal notice of violation. Data will not allow an analysis of how commonly informal notice is provided, because these initial contacts with owner are rarely recorded.
- **Formal Notice:** Support staff send a formal notice of violation, a legal notice that begins the enforcement period and is required under law, typically on the day after the inspection. All owners of record, and some tenants, receive a violation notice sent both by first-class and certified mail at the property address and the owner's last known address. These letters include a list of the violations, photos of the violations, the timeframe in which the violator must comply, and the consequences should they not comply. When an inspector cites multiple violations on a property, one or more violation notices are mailed to the owner for each violation. Property Maintenance may send separate violation notices because different types of violations have different compliance periods and enforcement paths. For example, a housing violation will be prosecuted in Municipal Court where the owner will face criminal misdemeanor charges. In contrast a vehicle violation will result in the city having the inoperable vehicle towed. All timeframes for the owner to act begin on the date the letter is sent rather than the date it is received. The notice of violation letter also includes the inspector's name and phone number. Many persons interviewed stated that the violation notice language is threatening and hostile in tone and does not identify the specific act that will remedy the violation. In contrast to most violations that require a separate formal notification for each case opened, weeds violations require just one postcard notice per season to alert the owner.²⁴ The City also has a separate procedure where property owners can authorize the city to immediately paint over graffiti without formal notice to the owner.

²⁴The one-time yearly written notice is described in IPMC 107.3 as amended by TMC 8.60.080, Section 107.3[a]7 as follows: “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 additional notice. The notice shall also include a statement that no further notice shall be given prior to cutting or removing weeds.”

CURRENT CODE ENFORCEMENT PROCESS

- **Where Owner Doesn't Receive Legal Notice:** Where letters are returned marked undeliverable, inspectors or support staff will attempt to find a better address using county or water utility records and resend the notice. Inspectors have limited time to research heirs should the owner have died or find an existing owner where there has been a change of address. As a result, in some cases, violation notices are sent for years to an invalid address or to an individual who is deceased.

STEP THREE: TRACK PROPERTIES FOR COMPLIANCE

Property Maintenance performs approximately 18,000 inspections per year. Approximately half are reinspections to determine whether the owner took action to remedy the violations. The average case requires three inspections. Typically, a reinspection is performed when the time period listed in the formal notice of violation has expired, after each continuance granted by inspectors (up to one), their supervisor (as many as needed), prior to a hearing with a court, and then each time the Administrative Hearing Judge or Municipal Court provides a continuance (up to six). The inspector is available to answer questions from the owner to assist in bringing the property into compliance.

STEP FOUR: ENFORCEMENT ACTION

Where the owner has failed to remedy the violation, the city takes one of the following three actions.

1. **Abatement:** The city has a robust abatement program. In large part this is because state law states that the city "shall" abate grass, sanitation, and vehicle violations.²⁵ Unlike housing violations, these violations are typically addressed by using the civil statutory process. To abate these exterior violations Property Maintenance staff must send a request for an administrative warrant to enter the property and abate the conditions to the prosecutor at the Law Department. The Law Department then applies for administrative warrants with the District Court each week. Property Maintenance inspectors currently serve the warrants provided by the District Court. The next step is for an abatement team that may include staff or contractors to abate the condition and charge the cost to the owner by adding these costs to the owner's property taxes. The city does not abate conditions within the home such as making emergency heating repairs. Graffiti cases are always abated, and the owner is not charged. Weeds and vegetation are addressed with a single notification each summer season and are placed on the mowing list and charged approximately \$275 per mowing that is added to the owner's tax bill. Where there is a vehicle violation, vehicles are towed at city expense and the owner of the vehicle is only asked to pay the towing and impound lot fee if they want the vehicle returned. Property Maintenance also has a Special Structures Unit for substandard structures that are unsafe and potentially need to be demolished at city expense. In 2021 there were 33 properties that were the subject of potential demolition.²⁶

²⁵K.S.A. 12-1617e Abatement of Nuisances ("If the owner or agent fails to comply with the requirement of the order for a period longer than that named in the order, the city shall proceed to have the things described in the order removed and abated from the lot or parcel of ground." http://www.kslegislature.org/li/b2021_22/statute/012_000_0000_chapter/012_016_0000_article/012_016_0017e_section/012_016_0017e_k/; League of Kansas City Municipalities Memorandum by Amanda Stanley to Richard Smith dated August 11, 2020 explores this issue in significant detail.

²⁶Memorandum to Public Health and Safety Committee from Brent Trout, City Manager titled Topeka Property and Premises Enforcement and Improvement 2021 (July 23, 2021).

CURRENT CODE ENFORCEMENT PROCESS

The current practice for collecting abatement costs is to bill the property owner for labor and time. If the property owner does not pay or set up a payment plan within 30 days, the penalty fees are sent to collections and the actual cost of the abatement is sent to taxes. The city is not permitted to send any penalties or administrative fines to taxes, only the actual costs incurred for the abatement and the cost to provide notice. After a year, the fees are also sent to collections. The lien remains on the property until the money is collected. Once sent to collections, interest may be collected.²⁷ The city spent approximately \$2.2 million on abatement actions from 2015-2021. Abatement costs were recovered from the owner 64% percent of the time.

2. **Administrative Hearing:** Topeka has established a civil administrative hearing process to review code enforcement claims where an owner disputes the existence of the violation or that due process was provided and to decide whether an unsafe structure should be demolished.²⁸ The property owner must request the hearing within ten days of notice. The hearing officer can affirm, modify, or reverse the decision of the inspector. The Administrative Hearing Judge heard 632 cases from 2015-2021, holds approximately 178 hearings annually and 57% of these are for unsafe structures. The Administrative Hearing Judge has the power to order demolition of an unsafe structure. Where the judge orders demolition, 63% of homes are demolished by the city, 27% are demolished by the owner and 9% are rehabilitated.
3. **Municipal Court:** Property Maintenance refers housing code violations that impact the structural integrity or health and safety of the house to a prosecutor who files the cases in Municipal Court. Where the court accepts the case, the court will provide notice to the owner/property manager to appear before the court for an arraignment and notifies the owner that they may be found guilty of a criminal misdemeanor.²⁹ A Property Maintenance staff member attends the hearings rather than an inspector. Most cases have multiple arraignments. In almost half of cases, the Judge discusses the owner's plan for repairing the violations and gives them a 60-day continuance to act. The Judge may grant up to six 60-day continuances. At the end of the six continuances, where the owner has failed to take action, the Judge can schedule a trial for 45-60 days from the last arraignment. 141 owners have gone to trial and been found guilty from 2015-2021. The Municipal Court typically will waive fines and dismiss smaller misdemeanor charges in the interest of resolving the case. Owners are responsible for paying \$200 per violation in court costs. Where a property owner fails to appear in court, the court may issue a bench warrant. Bench warrants are issued in 4% of cases (based upon MyGov data) with 312 issued between 2015-2021. Topeka does not actively serve Municipal Court bench warrants, but if an owner is stopped by police for another reason, they could be held.

²⁷K.S.A. 12-1,115.

²⁸TMC 2.45. <https://topeka.municipal.codes/TMC/2.45>

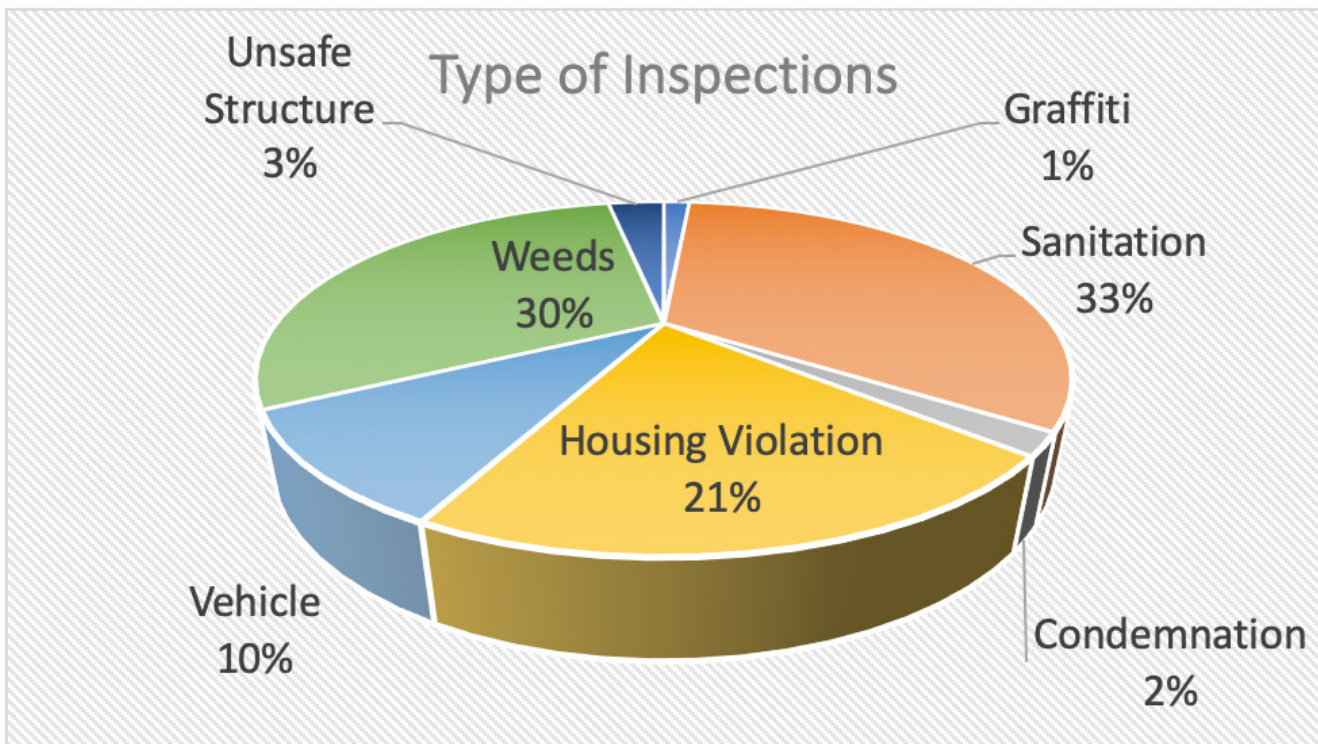
²⁹A violation in Municipal Court is an Unclassified Misdemeanor punishable by up to 179 days in jail and \$499. TMC 1.10.070.

CODE ENFORCEMENT BY THE NUMBERS – WHAT THE DATA TELLS US

Topeka Conducts an Average of 18,000 Inspections Annually – Half Are Inspections and Half Are Reinspections to Determine if the Owner Addressed the Violation (2015-2021)

Year	Total Inspections	Initial Inspections	Reinspections
2015	20076	10204	9872
2016	21445	10631	10814
2017	21214	11017	10197
2018	10963	7858	3105
2019	20022	10466	9556
2020	18078	9167	8911
2021	14360	7469	6891
Average	18023	9545	8478

Over 60% of Inspections Find Weed and Sanitation Violations (2015-2021)



CODE ENFORCEMENT BY THE NUMBERS – WHAT THE DATA TELLS US

78% of Code Enforcement Cases are Department Initiated (2015-2021)

Complaint Origin	Number	Percent
Complaint by Public (Includes complaints by Councilmembers or other city departments)	14,451	22%
Dept Initiated	52,291	78%
Total	66,742	

77% of Code Enforcement Cases are Exterior Only (2015-2021)

Type Of Violation	Number	Percent
Interior	1816	2.72%
Exterior	51458	77.10%
Interior and Exterior	14376	21.54%
Total	66742	

22,000 Properties Had a Total of 49,000 Code Enforcement Cases (2015-2021)

49,000: Code Enforcement Cases

22,000: Properties with Code Enforcement Cases

CODE ENFORCEMENT BY THE NUMBERS – WHAT THE DATA TELLS US

A Small Percentage of LLC and Larger Owners Use a Significant Percent of Code Enforcement Resources (2015-2021)

28%:	6000 of the Properties with Cases are Owned by LLCs
100:	Properties Have >15 Code Enforcement Cases (.45% of cases with code violations)
15%:	75 Owners with Most Cases are Responsible for 15% of Cases
90%:	Top Ten Owners with Most Cases are LLCs

Property Maintenance Performs an Average of Three Inspections Per Case to Identify Violation and Track Compliance (2015-2021)

Case Type	Average # of Inspections Per Case
Unsafe Structure	10.5
Housing Condemnation	8
Vehicle	3.4
Housing Violation	3.3
Sanitation	3.2
Graffiti	2.8
Weeds	2.1
Vacant Registry	1
Total	3.1

CODE ENFORCEMENT BY THE NUMBERS – WHAT THE DATA TELLS US

Average Time Between Complaint and Voluntary Compliance (Voluntary Compliance includes where Municipal Court Case Closed, Consent on File by Owner for Abatement) is 43 Days (2015-2021)

Type	Average Time (Days)
Housing Violation	133.58
Housing Condemnation	94.44
Vehicle	33.12
Sanitation	30.59
Weeds	19.71
Graffiti	14.08
Total	43.42

83% of Cases Achieve Voluntary Compliance by Owner (2015-2021) (Voluntary compliance, however, does not necessarily mean an owner promptly addressed the code violation. The current definition of compliance includes cases where a municipal court closed the case or where the city abated graffiti with consent of owner.)

Type	Number Voluntary Compliance	Percent Voluntary Compliance
Graffiti	325	92%
Sanitation	15827	85%
Housing Condemn	497	100%
Housing Violation	8022	99.9%
Unsafe Structure	188	98%
Vehicle	5036	89%

CODE ENFORCEMENT BY THE NUMBERS – WHAT THE DATA TELLS US

Weeds	11341	70%
Total	41236	83%

City Performed @8000 Abatements with 17% of Parcels Receiving More Than One. 64% of Abatement Costs (\$1.4 million out of \$2.2 million) Were Repaid (2015-2021)

Type	Total Parcels Abated by Type
Sanitation	2649
Weeds	5299
Graffiti	23
Total	7971

Abatement Type	Parcels Abated More than Once	Total Parcels Abated	Percent Parcels of Each Type Abated More Than Once
Sanitation	468	2649	18%
Weeds	889	5299	17%
Graffiti	0	23	0%
Total	1357	7971	17%

Abatement Type	Payment Received	% Paid	Collections Waived	% Collection Waived	City Waived	% City Waived	Total Fees
Graffiti	2,300.50	48%	300.86	6%	2,200.75	46%	4,802.11

CODE ENFORCEMENT BY THE NUMBERS – WHAT THE DATA TELLS US

Sanitation	582,813.54	79%	96,072.69	13%	56,836.51	8%	735,722.74
Unsafe Structure	171,687.32	35%	220,928.44	45%	100,363.93	20%	492,979.69
Vacant Registry	20,000.00	42%	0.00	0%	27,625.00	58%	47,625.00
Weeds	631,862.66	68%	223,100.92	24%	80,407.33	9%	935,370.91
Total	1,408,664.02	64%	540,402.91	24%	267,433.52	12%	2,216,500.45

The Municipal Court found 141 owners guilty of property maintenance code violations (2015-2021).

Year	Number of Property Owners Found Guilty of Property Maintenance Code Violation
2015	10
2016	28
2017	40
2018	20
2019	27
2020	12
2021	4
Total	141

KEY FINDINGS & RECOMMENDATIONS

This assessment identifies 11 high impact, feasible changes to law, policy and process that will make code enforcement more effective and equitable. Each of these changes is designed to place the smallest burden possible on good owners who care for their property while holding negligent, bad actors accountable.

Recommendations	Change to Law or Policy Required	Level of Impact (Low/Medium/High)	Priority for Implementation (High/Medium/Low)
1. Create Two Alternative Enforcement Paths for Low-Income Homeowners and Chronic Violators and Strengthen Standard Enforcement	Property Maintenance Dept Policy Change/Municipal Code Change/Municipal Court Policy Change	High	High
2. Prioritize Unsafe and Unsanitary Conditions Within Rental Properties	Property Maintenance Dept Policy Change/Municipal Code Change	High	High
3. Educate Owners and Tenants About their Rights and Responsibilities and Work with the Community	Collaboration	High	High
4. Use City Abatement Resources Strategically	Property Maintenance, Public Works and Community Engagement Depts Policy Changes	Medium	Medium
5. Identify, Register and Take Action to Reactivate Long-Term Vacant Problem Properties	Property Maintenance Dept Policy Change/Collaboration btw Departments	High	High
6. Welcome Investment by Providing Clear Rules for Repairs an Owner Can Perform	Development Services Policy Change/Code Clarification	Medium	Medium
7. Strengthen Data Collection and Analysis	Property Maintenance and Planning Dept Policy Changes	Medium	Medium
8. Update Job Descriptions for Inspectors to Lower Turnover and Improve Customer Service Skills, Hire A Housing Navigator, and Consider an Additional Support Staff Member	Change to City Hiring Policy/Updated Job Descriptions	High	High
9. Expand Multi-Family Common Area Fire Safety Inspections	Fire Dept Policy Change	High	High
10. Transfer Tax Delinquent Vacant Properties to Responsible New Owners at Tax Sale	Interlocal Agreement/ County legal change to "highest qualified bidder" definition	High	High

KEY FINDINGS & RECOMMENDATIONS

11. Record Contract for Deeds as First Step to Increasing Transparency of Process that Often Harms or Defrauds Buyer	County law change	Medium	Medium
--	-------------------	--------	--------

Recommendation One: Create Two Alternative Enforcement Paths for Low-Income Homeowners and Chronic Violators and Strengthen Standard Enforcement.

Creating an alternative enforcement path for owners with a financial or medical hardship will help the city to achieve compliance more effectively and equitably. The goal of Topeka code enforcement is to achieve voluntary compliance by the owner. Currently the city enforces code violations in the same way regardless of whether an owner is a low-income homeowner or a large national company with hundreds of rented properties. City staff responsible for enforcing property maintenance standards, nonprofit leaders who work with homeowners and tenants and the Judges who hear code enforcement cases in Municipal Court and at Administrative Hearing agree that there are a significant number of owners in Topeka who do not have the physical or financial capacity to maintain their properties regardless of how much they may want to do so. Judge Thadani estimates that 85% of the owners who come before the court "are indigent or too elderly to make the repairs." Where a significant portion of property maintenance violations are due to pervasive poverty and an aging housing stock, charging owners fees or bringing them into municipal court to face criminal misdemeanor charges often achieves little.

Properties owned by Limited Liability Corporations (LLCs) have high code enforcement case levels. From 2015-2021 LLCs made up 28% of the owners with code enforcement cases and 9 out of 10 of the owners with the most code enforcement cases were LLCs. These large professional investors are often more difficult to hold liable for code violations at their properties, particularly when they fail to appear in court. Several studies have confirmed that absentee owners, and in particular LLCs, consistently take the worst care of their properties.³⁰ Creating alternative enforcement paths for low-income homeowners and large rental property investment companies will help Topeka government to target limited enforcement resources to the worst offenders and assist compliance among owners who do not have the money to improve their property.

Recommendations

1. Alternative Path for Homeowners with a Medical or Financial Hardship

³⁰Geoff Rose, Differences in Urban Residential Property Maintenance by Tenure Type, March 2019; Travis, A. 2019. The Organization of Neglect: Limited Liability Companies and Housing Disinvestment. American Sociological Review, 84(1) (transition of rental property ownership from an individual owner to an LLC owner is associated with an increase in disrepair).

KEY FINDINGS & RECOMMENDATIONS

Create an alternative enforcement path that allows homeowners with a housing violation to file a financial and medical hardship form to join a diversion program. Low-income homeowners are often the focus for code violations because many lack the resources to maintain the exterior of their homes. Studies have shown that code violations are most likely to burden and punish poor homeowners who cannot afford the required repairs, and this is not the goal of Topeka's Property Maintenance program.³¹ Dragging poor owners into court every sixty days for two years as happened to the Senior in the case study below harms the medically fragile owner and takes up important court resources.

- a. **City gives homeowners with a housing violation the option to file a declaration of financial and medical hardship.** Every homeowner contacted by Property Maintenance should be informed of their right to file a short financial or medical hardship form that will make them eligible for assistance and waive standard fines and penalties for housing violations. Information about the diversion program should be included with all educational materials and communications with the owner including notices of violation. A good model for this form is the Poverty Affidavit form used by the District Court in Kansas.³² The city should ask owners to opt into the program because inspectors do not have the time or experience to determine who qualifies for additional help and it is important that the selection process be based on objective evidence rather than inspectors' discretion. The city should establish a clear set of eligibility criteria for hardship.
- b. **Housing Navigator works with the owner to cure housing violations under a written compliance agreement.** The city should hire a new staff member to work with owners as a Housing Navigator. This new staff person should have a background working with low-income residents and exceptional customer service skills. The Housing Navigator will work with owners who have a hardship to understand and eliminate housing violations. Where possible the Housing Navigator will work with the owner to try to identify assistance from the owner's own family, friends, or community. Where that is not available the Housing Navigator will connect the owner with existing city and nonprofit programs including the City Property Maintenance Repair Program. Where possible the Housing Navigator should also help to refer the owner to other federal or state programs for which they qualify that will offer dignity and a better quality of life. The Housing Navigator can be housed at Property Maintenance or in the Housing Services Division of the City. The advantage of the Housing Navigator being a part of Property Maintenance is better communication with inspectors and an opportunity to let owners know that Property Maintenance are not "the bad guys". The positive of the Housing Navigator working from the Housing Services is the enhanced knowledge about all existing programs including eligibility requirements.

³¹Robin Bartram (2019) The Cost of Code Violations: How Building Codes Shape Residential Sales Prices and Rents, Housing Policy Debate, 29:6, 931-946, DOI: 10.1080/10511482.2019.1627567

³²Poverty Affidavit, Kansas Judicial Council Website Documents <https://www.kansasjudicialcouncil.org/legal-forms/civil-actions/chapter-60/poverty-affidavit/poverty-affidavit> downloaded on July 11, 2022.

KEY FINDINGS & RECOMMENDATIONS

- c. Non-Compliant owner will be returned to the standard enforcement process.** The Medical and Financial Hardship program is a diversion program for owners who work with the city to bring their property up to compliance. Since the owner must opt in, there is a good chance that the majority will then work with the city to do so. Where the owner does not make progress on their housing violation in up to 90 days, they will be automatically routed back into the standard enforcement track.
- d. Track success of diversion program regularly and recruit new partners.** The goal for this diversion program is compliance. It is therefore important to regularly track whether the program is achieving compliance as well as how many contacts with the housing navigator are needed, what resources are most used and what tools or interventions are most effective at moving owners towards compliance. The program should work with non-profit partners and volunteers such as Topeka Habitat who has funding to help seniors and persons with disabilities to make home repairs. At the end of a year, the city should perform an analysis of how effective this program has been and how it can be improved.
- e. Expand investment in home repair.** The City of Topeka's Property Maintenance Rehabilitation Program obtained its second \$750,000 grant from Federal Home Loan Bank of Topeka for its Property Maintenance Rehabilitation Program. This is an extraordinary opportunity to help approximately 50 households who received a notice of violation bring their property up to code within the next three years. The City's Housing Services Division administers the Property Maintenance Rehabilitation Program that provides grants from \$2,500 to \$20,000 to a homeowner who has been cited by the city with repair assistance. The grant is a lien upon the property for five years and then it is forgiven and removed. The need for this program, however, far exceeds 50 households. There is a possibility that Topeka could apply for and receive more than one such grant from the Federal Home Loan Bank every three years. Expanding the program will require more employees to develop the work scope for each house and perform quality control inspections.³³ The possibility of more frequent Federal Home Loan Bank grants should be further explored if it does not threaten the Federal Home Loan Bank grant for home repairs that a Topeka nonprofit receives.³⁴ In addition the city should work on increasing other available resources for home repair programs managed by the city and its nonprofit partners. Other cities have found new funding partners that include hospitals and health care systems, universities, and smaller family foundations.

³³The Federal Home Loan Bank requires that a different inspector from the one who wrote the scope of work must inspect the repairs made at the house.

³⁴Topeka Habitat received \$630,000 from the Federal Home Loan Bank to help low-income owners over age 55 with repairs.

KEY FINDINGS & RECOMMENDATIONS

Case Study of a Homeowner with a Financial and Medical Hardship

An 80-year-old gentleman bought a home in 1994 for \$34,750. This 100-year-old house in the North Topeka East neighborhood is currently valued at \$29,000.

In 2018, the city sent the owner two Notices of Violation. The first cited the property for storing three inoperable vehicles in the yard. The owner was a mechanic before he retired in 2004 and continues to store cars and motorcycles in his yard in hopes of repairing them one day. He stated that he tried to keep these vehicles from being messy, but he has several “ongoing projects”. The second violation cited the property for a housing violation as the paint was peeling and the gutters on his garage were rotted. The homeowner says he was cited for other conditions as well because every time the inspector would come out, he would find a new violation.

The owner didn't repair the violations. He stated it was because he didn't have the money and was in poor health. He had retired at age 62 and in 2022 was living on approximately \$900 a month.

The city prosecuted the housing violation case in Municipal Court and for two years this gentleman was required to appear in court approximately every two months. He attended 13 arraignments from December 2019 to January 2022 with 60-day continuances granted each time. When the owner failed to appear at an arraignment in July 2020 the Judge issued a bench warrant for the owner's arrest. While the city did not go out and arrest the homeowner, the bench warrant was recorded so that if he was stopped for any reason such as a speeding ticket, he would be arrested and detained.

In 2021 an acquaintance told the homeowner that Habitat might be able to help him make necessary improvements to his house. Habitat helped him to paint his house and repair the gutters and also to lower his water bill, obtain health insurance and food stamps. Habitat also determined that he was delinquent on his property taxes and the owner is working to avoid tax foreclosure and pay the \$5000 in taxes owed.

2. Alternative Path for Chronic Violators

The goal for this enforcement path is to hold chronic violators accountable for failing to comply with the city's health, safety, and anti-bligh standards. From 2015-2021, the top 75 owners with chronic violations are responsible for 15% of cases. And most of these owners (60% of the top 50 owners with cases) are professional businesses organized under an LLC – limited liability company. These frequent offenders are currently taking up substantial inspector and court resources.

KEY FINDINGS & RECOMMENDATIONS

Kansas law allows the city to aggressively prosecute companies who choose not to maintain their properties and find them criminally liable.³⁵ Companies can be found guilty of a criminal misdemeanor in Kansas. In addition, Municipal Court has the power to find owners in contempt or to order injunctive relief as a condition of probation or a plea agreement.

- a. Pass drafted ordinance to strengthen enforcement powers over LLCs.** Currently the Municipal Court does not have the power to issue a bench warrant for an LLC or collect a default judgement should the owner or property manager for the LLC not respond to a court summons. This must change. The City Attorney has drafted a well-written ordinance that allows the summons and default judgement in court for LLCs. The ordinance is modeled after state law that provides this authority to the District Court. It is a simple fix for Council to pass this ordinance and give the court the means to hold these companies responsible. Owners form LLCs to protect their personal assets so if the owner cannot pay their debts or harms a tenant due to dangerous conditions in a rental unit, the owner's homes, wages, and savings cannot be touched. As LLCs shield property owners from personal liability, they also may make it harder for courts to hold them accountable. The new ordinance will strengthen the city's ability to obtain compliance from professional landlords.
- b. Consolidate cases of chronic violators.** Consolidating the cases of chronic violators will allow the Municipal Court and Property Maintenance Department to better hold chronic violators responsible for maintaining their rental units. Owners will still receive notice for each violation as they do today. Internally, however, the Property Maintenance Department and City Law Department can stop treating each violation in isolation and routinely determine whether this owner has other pending violations at the same or other properties. The reality is that an owner with serious code violations at one building often have the same violations at their other properties yet requiring the owner to fix up one property doesn't make the other properties safer. By holding an owner liable for the entire portfolio of properties, it is possible to have a greater impact. For example, where the owner tells the court that they cannot make repairs for months due to financial capacity, but they own 50 properties that are bringing in thousands of dollars each month in rents, the Judge can see the entire pattern of violations and order quick action.

The Municipal Court and City Law Department can determine the best method to determine what the owner's entire portfolio of properties with code violations are. Property Maintenance or the Law Department can do some detective work to define the portfolio of properties as owners may hold properties under different LLCs with different registered agents and addresses. Another option is for the court to require

³⁵State of Kansas, v. Spencer Gifts, LLC No. 111,398. Decided: April 24, 2015. <https://caselaw.findlaw.com/ks-court-of-appeals/1698823.html>

KEY FINDINGS & RECOMMENDATIONS

owners to submit an affidavit listing all properties that they have an ownership interest in that have a code violation during a specific timeframe. By investigating an owner's entire portfolio of properties with violations, other cities have been able to cost effectively improve the condition of hundreds of units. The key is to create a notification process that allows the city to combine violations while providing legal notice for each separate violation.

- c. Municipal Court should use injunctive relief powers to obtain compliance.** The Municipal Court that hears housing violation cases can use their injunctive relief powers to motivate chronic violators to remedy violations. In egregious cases, the most effective lever a court has is to remove the landlord's ability to collect rents on an illegal housing unit serious health and safety violations have been fixed. The courts do this by ordering all or partial rents to be placed in escrow until the serious health and safety violations are remediated. In Kansas, placing rents in escrow is used in quiet title suits where the property is rented to temporarily keep rental income until ownership is decided. When landlords are not collecting rents, it provides strong incentive to resolve code enforcement issues swiftly. The Court could establish the escrow account or could work with a nonprofit who will take responsibility for holding rental income until the serious health and safety violations are remedied. The court can also use its injunctive relief powers as part of a plea or a condition of probation to stop a landlord from leasing a unit to a new tenant until the violations are remedied to stop perpetuating a system that puts people in dangerous housing. This not only motivates the owner to make the repairs but also prevents some retaliatory evictions as the owner cannot just cycle a new tenant through the non-compliant property.
- d. Impose fines, penalties, and court costs.** Investor owners are renting Topeka properties to make a profit. Today fines for repeat offenders stop at \$250, an amount far less than it will cost to make repairs. To gain their attention, often a city must charge sufficient dollars to alter the owner's business model and make the best business decision to maintain their properties. Currently a chronic violator is fined just \$100 for the first violation and a \$100 increase for subsequent violations. Under law these fines can be accrued each day a violation is in place and the city should use that power against worst offenders.
- e. In egregious cases where owners refuse to maintain large numbers of rental properties, the city can bring a civil lawsuit.** Data analysis identified ten owners who have cost the city tens of thousands of dollars in code enforcement and abatement costs. The owners have made a business decision to only repair their properties once the city has used staff time and resources to cite them and bring them to court. Getting just the top 75 owners with the most violations to obey the law will eliminate 15% of violations. In egregious cases the city can bring a lawsuit in District Court to compel compliance and recover all costs, fines, and penalties.

KEY FINDINGS & RECOMMENDATIONS

Case Study of an LLC Chronic Violator

In Topeka, over 1 in 4 rental properties are owned by an LLC, a limited liability company that owners form to hold real estate and protect their assets from tenant litigation or code enforcement fines. This case study explores one LLC referred to below as LLC X.

LLC X was started by a married couple who has been purchasing and renting houses in Topeka since the 1980's and has over 100 single family homes. The couple have several LLCs that they use to buy and hold properties. The couple refused to share the names of the LLCs as "it would violate their privacy rights". Their rental homes are scattered across Topeka but are clustered in neighborhoods with low sales prices. Real estate agents routinely call the husband and wife when single family homes come onto the market to see if they are interested in purchasing more houses for rental. As large owners they can buy multiple properties at one time and can make a cash purchase allowing them to compete successfully against homeowners seeking to purchase their first house.

LLC X had 22 housing violations cases in Municipal Court between 2016 and 2021. Most of the violations were initiated by Property Maintenance inspectors and were visible from the public right of way such as a leaky roof or collapsing porch. The property manager claimed progress was being made on these violations and the Municipal Court granted six 60-day continuances. In fact, the property manager "played the system" and took no action to remedy the violations. The owners did not pay attention to what was happening because the court did not impose any fines or penalties. In time the owner fired the property manager and remedied each violation. The owner noted that there were significant health and safety issues at some properties, but the tenants did not complain due to fear of losing an affordable place to live.

3. Strengthen Standard Enforcement Path

The city can take several actions to improve the effectiveness of its standard enforcement path as well. The city should create a uniform, objective standard for granting continuances, update the Notice of Violation letter and collect fines and costs from all owners who have not filed a Financial or Medical Hardship form.

- a. **Define objective response times for violations that are time sensitive and involve high-risk hazards.** There are code complaints that impact the health and safety of tenants. These top priority complaints require a swift inspection from government and a rapid response by the owner. The compliance period for these types of violations should be 24 to 48 hours. Examples include structural failures, open/accessible abandoned buildings and occupied rental housing with substandard conditions such as no heat or hot water.
- b. **Create a clear objective standard for granting continuances.** Currently inspectors, supervisors, the Administrative Hearing Judge, and the Municipal Court Judge can all grant continuances based upon their subjective judgment of whether it is

KEY FINDINGS & RECOMMENDATIONS

warranted. Inspectors may provide one continuance, the Inspector Supervisor can currently provide as many continuances as they decide are warranted based upon their discussions with the owner, and the Municipal Court can provide up to six 60-day continuances giving an owner a full year before they must fix the violation. Right now, almost half of the time an owner appears in court they receive a continuance for an additional 60 days. Creating firm objective standards for when an owner with a housing violation is granted a continuance is easier once owners with a financial or medical hardship are placed in a diversion program. Facts warranting a continuance will be reasons such as inability to find a contractor or weather conditions. This process will add consistency, predictability and accountability to the process and significantly speed up the time it takes to resolve a code enforcement case.

- c. Update notice of violation letter.** Topekans interviewed repeatedly spoke of how the notice of violation letter left property owners feeling threatened and intimidated. Strategic code enforcement starts with the way the city informs owners that they have one or more outstanding code violations. Currently the city issues formal notices of violation that resemble law enforcement citations with legal terminology and threats of severe punishment and fines. Inspectors list the sections of the code that were violated, but the format does not explain why the violation is important, translate the specific code terms or clearly state what action the owner must take. Rewriting the violation letter so that it provides the owner with the information required under law for legal notice (and makes it easy to generate administrative warrant application if abatement is needed) but also respectfully speaks to the owner is a better approach. Topeka should revise the notice to provide a friendlier, clearer explanation of each violation, including why the violations are important to address and the actions an owner must take to resolve each violation. Community Progress conducted a survey of landlords in Gary, Indiana and found that owners' failure to fix cited violations was frequently due to confusion as to what actions were needed.³⁶ Translating terms into plain English, clearly setting out the specific actions needed to resolve the violation and setting a tone of more collaborative compliance will encourage owner action. The letter should be available in Spanish as well.
- d. Routinely assess fines, penalties, and court costs.** Once owners who have a financial or medical hardship are diverted to another enforcement path, it becomes more reasonable for remaining owners to routinely pay fines and court costs. By amending city code (TMC 2.40.010), the city can strengthen fee and fine assessment and collection policies, including the routine collection of court costs where court intervention is required before an owner agrees to comply with the law.

Best Practices

³⁶Building a Strategic, Data-Driven Code Enforcement Program for Gary Indiana, Center for Community Progress Report (August 2015) https://www.communityprogress.net/filebin/150928_TASP_Gary_Report_FINAL.pdf (Center for Community Progress found that 50% of owners taken to court for code violations in Gary Indiana just needed clarification on how to address the violation and they were able to remedy it.)

KEY FINDINGS & RECOMMENDATIONS

Homeowners with Medical or Financial Hardship

- Minneapolis has three tenant navigators on staff to work with residents living in the worst housing where code enforcement places them at risk of displacement. They help tenants understand their rights and options to obtain safer housing.³⁷
- In Cleveland, city departments collaborate to support seniors living in housing with significant code violations and help them obtain home repair assistance or new housing to ensure that they can age in place.³⁸ In addition the Housing Court employs a Housing Court Specialist to assist a criminal defendant in locating sources of financing or grants to complete needed home repairs. Specialists assist the court by monitoring progress of work and reporting that progress to the court. They are available on a first come-first served basis, from 8:30 a.m. until 3:30 p.m., Monday through Friday. Owners interested in having a Housing Court Specialist assigned to their case, ask the Judge at the time of their first court hearing.
- Newburgh, New York, has a code enforcement officer with a social service background who is automatically assigned to cases where the violation may result in temporary or permanent displacement for tenants. The goal is to connect residents to existing resources that can mitigate the hardship caused by code violations.³⁹
- Rochester, New York, hires former teachers, community organizers, and veterans as code enforcement officers placing the emphasis on customer service and helping owners to make the right decision and keep their property up to code. According to Gary Kirkmire, the city's commissioner of neighborhood and business development, Rochester's new emphasis on working with owners to achieve compliance means inspectors are less commonly seen as an adversarial ticket-writer and more as a diplomatic ambassador of city standards.⁴⁰
- In Peoria, Illinois, each owner with a violation signs an agreement that the city posts on its website pledging that repairs will be made within 180 days. If that does not happen, the city issues a \$500 fine and goes to court.⁴¹ If the violations are corrected, Peoria inspectors place a "good job" door hanger on the property. The city won an award from the International Code Council for this practice.⁴²
- Recent research involving behavioral analysis of the code enforcement processes in New Orleans, Louisville, and Chattanooga indicated that contacting property owners earlier in advance of inspections, simplifying and providing direct calls to action in notices of violations, and proactively communicating and providing resources to previous violators, improved compliance by 14.7 percent, 3.3 percent, and 9.2 percent respectively, and provided an estimated cost savings of between 6% and 15% of each code enforcement department's budget.⁴³

³⁷Presentation by Dee Dee Walker, Minneapolis Tenant Navigator, Safe and Healthy Rental Housing, Reclaiming Vacant Properties National Conference (October 3, 2019).

³⁸Interview with Ayonna Blue Donald, Director of Cleveland Department of Building and Housing by Karen Black on December 13, 2019. (This is a cooperative effort between the City's Departments of Aging, Building and Housing, Community Development, Consumer Affairs, Public Health and Law.)

³⁹The Power & Proximity of Code Enforcement: A Tool for Equitable Neighborhoods, Cities Rise, Ford Foundation and Hester Street (June 2019) https://hesterstreet.org/wp-content/uploads/2019/07/CR_Phase-I_Equitable-Code-Enforcement-report_FINAL-JUNE-2019.pdf

⁴⁰Interview with Gary Kirkmire, Commissioner of Neighborhood and Business Development by Karen Black on December 12, 2019.

⁴¹Joe Dulin, Assistant Director of Community Development, Community Progress Reinventing Vacant Properties Conference presentation titled "Code Encouragement to Support Rental Property Compliance (October 4, 2019).

⁴²Jason Howell, 100 blocks in 100 days aims to inform homeowners, build relationships, HOIABC, (September 4, 2019) <https://hoiabc.com/2019/09/04/100-blocks-in-100-days-aims-to-inform-homeowners-build-relationships/>

⁴³Linos, Elizabeth & Quan, Lisa & Kirkman, Elspeth. (2019). Nudging Early Reduces Administrative Burden: Three Field Experiments to Improve Code Enforcement. Journal of Policy Analysis and Management. 39. 10.1002/pam.22178.

KEY FINDINGS & RECOMMENDATIONS

- In Philadelphia, hospitals and health care systems have become important home repair partners. For example, the Children Hospital of Philadelphia created the Community Asthma Prevention Program to improve the health of children with asthma. The program pays for contractors to go into the homes of patients to make fixes that decrease or eliminate asthma triggers (e.g., to repair roof or plumbing leaks, replace carpets with wood flooring, seal gaps to keep out pests). The program recently finished work on its 125th dwelling. It spends an average of \$14,000 on each house. The health care system identifies the patients to receive assistance and pays for the work to lower their health care costs and improve the health of their patients.⁴⁴

Chronic Violator Investors with Multiple Properties

- Los Angeles' Systematic Code Enforcement Program uses escrow as its primary code enforcement motivator and it works.⁴⁵ If a building does not come into compliance with the code, the city places the property in the Rent Escrow Account Program (REAP). REAP tenants receive a reduction in rent of up to 50% and are given the option of paying their rent into an escrow account or to the landlord.⁴⁶ The city records REAP as a lien on the property which is cleared only when the property owner comes into compliance with the code.⁴⁷
- Rochester NY provides for a rent abatement where there are health and safety violations or dangerous and hazardous conditions that an owner failed to cure after receiving a notice of violation. There is an exception for tenant-caused damage or where the tenant denies access to their unit.⁴⁸
- Philadelphia's Fair Housing Commission uses rent withholding as the primary driver to achieve landlord cooperation when the tenant alleges substandard housing conditions.⁴⁹
- Portland Oregon's "enhanced enforcement" program inspects other units in the same building or the exterior of an owner's other properties after finding a unit that is "chronically out of compliance with City Code and where repairs are not made in a timely manner."⁵⁰ A study of this program found rental owners making 70% more improvements overall to their properties to correct violations than with inspections of individual units in response to tenant complaints.⁵¹

⁴⁴Natalie Pompilio, "Health Starts at Home", Philadelphia Citizen (July 12, 2022) downloaded https://thephiladelphiacitizen.org/chop-asthma-program/?mc_cid=04f3f58605&mc_eid=2ccbc34c1f July 17, 2022.

⁴⁵Interview with Los Angeles Chief Inspector Robert Galardi by Karen Black on November 26, 2019.

⁴⁶Rent reductions for each violation are cumulative so for example highest severity is lack of hot water (20%) and lack of fire alarms (20%). Add these reductions to each other and the tenant may withhold 40% of rent. Interview with Los Angeles Chief Inspector Robert Galardi by Karen Black on November 26, 2019.

⁴⁷Model Healthy Home Policies, Loyola University Chicago, <http://www.luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/Model%20Healthy%20Homes%20Policies%20HJP%20FINAL.pdf>

⁴⁸<https://www.cityofrochester.gov/article.aspx?id=21474850162>

⁴⁹Interview with Rue Landau, Executive Director of the Philadelphia Commission on Human Relations (PCHR) and the Fair Housing Commission (FHC), by Karen Black on December 20, 2019.

⁵⁰FY 2018-19 Budget Equity Assessment Tool, City of Portland Bureau of Development Services <https://www.portlandoregon.gov/BDS/article/671058>

⁵¹Rental Housing and Health Equity in Portland, Oregon: A Health Impact Assessment of the City's Rental Housing Inspections Program, Oregon Public Health Institute (September 2012) [https://ophi.org/download/PDF/RHIP%20HIA_Final%20Report_web\(2\).pdf](https://ophi.org/download/PDF/RHIP%20HIA_Final%20Report_web(2).pdf)

KEY FINDINGS & RECOMMENDATIONS

- Chicago may inspect all of an owner's rental properties and schedule the cases for a single court date to show the scope of the violations. The city uses this approach when an inspection reveals serious violations at a single rental property approximately six times per year. The code enforcement agency has found this has helped motivate owners to make repairs or sell the properties.⁵²
- Minneapolis is ramping up its portfolio-based inspections for owners who have multiple properties and multiple violations. An official there called it a "great way to manage limited resources for higher impact".⁵³
- Cleveland Housing Court fines absentee owners of vacant and dilapidated housing \$1,000 for every day they fail to appear in court. Buffalo Housing Court enters default judgments against those who ignore summons for code violations, imposing fines of up to \$15,000, and placing a lien on the property for the amount of the fine.

Recommendation Two: Prioritize Unsafe and Unsanitary Conditions Within Rental Properties

The city needs tenants to file complaints to improve worse condition rental housing. The city has entered and inspected less than 1% of rentals. Yet there is a strong consensus by housing providers, landlords and community leaders that some landlords are renting illegal non-code compliant units to vulnerable tenants with few other options who may not know their rights to habitable and safe housing, especially those with language barriers or physical disabilities. Code enforcement relies upon tenant complaints to identify rental properties that are unsafe or unsanitary, because under Kansas law it is the tenant who must consent to have Property Maintenance inspectors enter the interior of the property. In Topeka, however, tenants rarely complain.

Over 50 leaders interviewed for this plan agreed that tenants do not complain because they fear retaliation. This is confirmed by several studies that have found that vulnerable tenants in unsafe and unhealthy housing do not complain despite the existence of codes intended to protect people from cold, damp, and dilapidated housing.⁵⁴ In Topeka, quality affordable housing is scarce so for many tenants the choice is not between a house without running water and a better rental, the alternative is being homeless. Tenants' ability to move to a better unit is also limited by the need to save up first month's rent, last month's rent and a security deposit. Even where a tenant leaves due to bad conditions, it is rare that a landlord will dramatically improve conditions for the next tenant. As a result, community leaders assert that housing with significant hazards have revolving doors where one tenant leaves due to poor conditions and a new unsuspecting tenant arrives and pays their security deposit, first and last month's rent based upon repeated promises that repairs will be made.

⁵²Interview with Judy Frydland, Commissioner of Chicago Department of Buildings by Karen Black on December 23, 2019.

⁵³Interview with Kellie Jones, the director of Housing Inspection Services for the City of Minneapolis on October 3, 2019.

⁵⁴Elinor Chisholm, Philipa Howden-Chapman & Geoff Fougere (2020) Tenants' Responses to Substandard Housing: Hidden and Invisible Power and the Failure of Rental Housing Regulation, *Housing, Theory and Society*, 37:2, 139-161, DOI: 10.1080/14036096.2018.1538019

KEY FINDINGS & RECOMMENDATIONS

Recommendations

1. **Remove bureaucratic requirements that deter tenants from filing code violation complaints.** The city seeks to protect tenant's rights to a safe and sanitary dwelling without risking liability for an illegal search. Currently the code inspector requires that tenant provide written consent to enter a home by officially waiving their rights and, in some circumstances, giving verbal consent to enter each room. The city should prepare a kinder consent form that explains a tenant's right to complain and tenant protections against retaliation by the landlord. Property Maintenance should also keep reports by tenants confidential where possible during the early stages of a case. There have been some reports of landlords being informed of the name of a tenant filing a complaint.
2. **Amend retaliatory eviction law to encourage tenants to inform government when housing violates the law.** Retaliatory eviction protections serve a critical code-enforcement function. Without protection from retaliation tenants will not contact Property Maintenance as landlords can evict or raise the rents for complaining tenants. Topeka Municipal Code Chapter 9.25 recognizes that tenants hesitate to defend their right to a clean, safe and sanitary dwelling due to fear of eviction. Yet the existing law at TMC 9.25.020 has not proved effective in stopping retaliatory evictions due to practical problems with administration and the difficulty of proving landlord intent. The city should explore amendments to the law that will increase its effectiveness.

First, the city should stop requiring a tenant to file their complaint with the police to bring criminal charges against their landlord. The police are not the appropriate investigative body, their involvement is not required by either the state⁵⁵ or city law and requiring tenants to file with the police has a substantial deterrent effect. A tenant should be able to file a complaint for retaliatory eviction with Property Maintenance and allege that an eviction was threatened in whole or in part as a penalty for tenant's good faith attempt to exercise their rights and file a report to government or to the landlord whether or not they have a written lease.⁵⁶ Property Maintenance can then forward these cases to the prosecutor who can determine whether to prosecute the cases before the Municipal Court.

Second, the city ordinance should be amended to shift the burden of proof to the landlord once the tenant establishes that they filed a complaint with Property Maintenance or the landlord for substandard housing conditions within a short timeframe from the threatened eviction. Once the tenant shows this, it is up to the landlord to provide a nonretaliatory justification for the eviction.⁵⁷

⁵⁵K.S.A. 58-2572 Certain Retaliatory Actions http://www.kslegislature.org/li_2012/b2011_12/statute/058_000_0000_chapter/058_025_0000_article/058_025_0072_section/058_025_0072_k/

⁵⁶The Uniform Residential Landlord Tenant Act of 1972 provides retaliation complaints to all tenants whether or not they have a lease and protects tenants based upon complaints to the landlord as well as governmental agencies. UNIF. RESIDENTIAL LANDLORD & TENANT ACT § 5.101 (UNIF. L. COMM'N 1972); REVISED UNIF. RESIDENTIAL LANDLORD & TENANT ACT ART. 9 (UNIF. L. COMM'N 2015) [hereinafter REV. URLTA]. The revised URLTA may also be more palatable for landlords, as it introduces punishments for tenants who make bad faith complaints and shortens the presumptive period in the original URLTA to six months.

⁵⁷180 ARIZ. REV. STAT. ANN. § 33-1381 (2019) (evidence of a complaint within six months prior . . . creates a presumption that the landlord's conduct was in retaliation) <https://www.azleg.gov/ars/33/01381.htm>; MICH. COMP. LAWS. § 600.5720 (2019) (If a defendant who alleges a retaliatory termination of the tenancy shows that within 90 days before the commencement of summary proceedings the defendant attempted to secure or enforce rights against the plaintiff or to complain against the plaintiff, as provided in subsection (1)(a), (b), (c), or (e), by means of official action to or through a court or other governmental agency and the official action has not resulted in dismissal or denial of the attempt or complaint, a presumption in favor of the defense of retaliatory termination arises, unless the plaintiff establishes by a preponderance of the evidence that the termination of tenancy was not in retaliation for the acts.) [http://www.legislature.mi.gov/\(S\(qdwwvb5xofkmd40pmkhl गया\)\)/mleg.aspx?page=getObject&objectName=mcl-600-5720](http://www.legislature.mi.gov/(S(qdwwvb5xofkmd40pmkhl गया))/mleg.aspx?page=getObject&objectName=mcl-600-5720)

KEY FINDINGS & RECOMMENDATIONS

The Supreme Court has upheld this approach⁵⁸ as have courts around the country having found that without this rebuttable presumption, the tenant's task to prove landlord intent is effectively insurmountable.⁵⁹ If the landlord does not introduce evidence sufficient to rebut the presumption, the court will judge in favor of the tenant. If the landlord introduced evidence of other motives for eviction (e.g., the tenant failed to pay rent), the presumption will disappear, and the tenant then has the opportunity to introduce evidence disproving the landlord's evidence.

Third, the city and its partners will need to educate tenants of their legal right to contest a landlords' retaliatory actions. The city should consider requiring owners to include information about the prohibition against retaliatory eviction in the lease and for Property Maintenance to again inform each tenant at the time they file a complaint.

Fourth, the city should partner with nonprofits and community to develop a "bench" of at least three private attorneys who are ready and willing to represent tenants in asserting their claim of retaliatory eviction in court. Retaliatory eviction cases are difficult for a tenant to prove without the assistance of a lawyer.

3. Do not close the case when the tenant changes and rapidly refile when the property is transferred to a new owner. Once a violation is verified, the city should reinspect and cite the property until the violation is eliminated. For tenants, the point when they have secured a safer rental and are getting ready to move out is often the moment they are willing to report serious violations that their current landlord has refused to fix to prevent future tenants from having to live in such conditions. Currently a code enforcement case is often closed when the tenant moves out. This approach stops the city from ensuring that the owner made the required repairs. Instead, the city should reinspect every valid complaint to ensure the owner acted and the property is in compliance. The new tenant can consent to letting an inspector into their unit or the city can obtain an administrative search warrant since the earlier inspection report that documented the violation with photos provides sufficient probable cause for such a warrant.

Topeka law currently requires an owner to inform any buyer of pending notice of violations or compliance orders.⁶⁰ Municipal Court Judges noted that some owners transfer ownership to a member of the family to avoid liability for code violations. Where the owner transfers the property to an LLC or other legal entity but continues to hold a percent ownership interest, the pending

⁵⁸McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) that says the owner would have to overcome a presumption of guilt once tenant makes a prima facie case. Analysis at [https://content.next.westlaw.com/3-517-3961?transitionType=Default&contextData=\(sc.Default\)&lrTS=20191230054147249](https://content.next.westlaw.com/3-517-3961?transitionType=Default&contextData=(sc.Default)&lrTS=20191230054147249)

⁵⁹See, e.g., CONN. GEN. STAT. ANN. § 47a-20 (West 2006), as construed in *Murphy v. Baez*, 515 A.2d 383, 385 (Conn. Super. Ct. 1986) (citing *Alteri v. Layton*, 408 A.2d 18 Conn. Super. Ct. 1979)); N.J. STAT. ANN. § 2A:42-10.10, 10.12 (West 2010); *Hillview Assocs. v. Bloomquist*, 440 N.W.2d 867, 871 (Iowa 1989) (citing IOWA CODE §§ 562A.36, 562B.32) of a complaint within six months prior to the 95. See, e.g., *Hillview*, 440 N.W.2d at 871 ("In an action by or against the tenant, evidence alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation.").

⁶⁰PMC 107.6 states "It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation."

KEY FINDINGS & RECOMMENDATIONS

enforcement action should continue to be enforced against the owner.⁶¹ Where the owner no longer has an ownership interest, the new owner should be promptly provided legal notice and a case should be automatically opened in the new owner's name and linked with the earlier case so the court can see an accurate timeframe since the initial notice of violation was issued.

- 4. Create checklist and train inspectors on procedure for inspecting interior units.** The city should adopt a clear checklist for interior inspections that all inspectors will follow to ensure for consistent standards. To encourage tenants to complain, the city may wish to limit the checklist to key health and safety issues rather than including every potential violation. For example, Baltimore created 12 health and safety items in cooperation with landlords that every unit should have and only includes these items on its interior inspection checklist.⁶²
- 5. Develop a policy to avoid displacing tenants living in dangerous conditions.** The city needs to put a procedure in place to ensure the city does not needlessly displace tenants. The last thing anyone wants to do is force a family into homelessness. There are three alternative approaches that Topeka should consider. The first is to acknowledge that some tenants have been living in substandard conditions a long time and therefore remove a tenant very rarely and only if the property is an "imminent hazard" and instead enforce a requirement that a landlord fix the condition immediately. Defining an imminent hazard may rest with the inspector, city attorney, Administrative Hearing Judge or court. Another option is to rely upon the city's housing department to find another apartment for displaced tenants or to have the tenants work with a housing navigator to find a safe rental. Finally, the city can explore whether it wants to adopt a change in policy and obtain an administrative warrant to enter the house, abate the condition, and bill the owner.⁶³
- 6. Require landlords to inform tenants about pending code violations.** Topeka should require an owner/landlord to inform new tenants before they sign their lease that there are existing code violations, and that Property Maintenance may need to inspect their unit to verify that the code violations have been eliminated. Just as owners must inform buyers of pending violations, so should the landlord inform the tenant who will be living there. This should make it easier for Property Maintenance when requesting consent to reinspect the unit to ensure the violation has been resolved. It also has the potential to stop the revolving door of tenants who live in substandard conditions awaiting promised repairs.
- 7. Launch a Mayor's Landlord Committee to lift up rental housing condition.** Peer pressure is a driver in some industries for all professionals to do better. This committee will call upon the expertise of landlords to shape policies and educational materials that will resonate with landlords and to use a little targeted "peer pressure" on their colleagues who for too long have rented problem plagued housing. In several interviews and focus groups landlords stressed that slumlords who rent properties unfit to live in to poor tenants give the entire industry a bad name and hurt all landlords in Topeka.

⁶¹Code of Virginia, Title 36, Chapter 6, Article 1 Section 36-105 (C)(4). Holds owner accountable where transfers property to another entity but retains greater than 50% ownership interest.

⁶²Baltimore City Rental License Inspection Form <https://dhcd.baltimorecity.gov/sites/default/files/dhcd/attachments/Inspection%20Checklist%20-%20Inspector%20Guidance%20Document.pdf> downloaded July 24, 2022.

⁶³For a detailed discussion of displacement policies, see Rental Code Enforcement in Philadelphia, Pew Charitable Trusts (Nov 2021). <https://www.pewtrusts.org/-/media/assets/2021/11/rental-enforcement-in-philly.pdf>

KEY FINDINGS & RECOMMENDATIONS

8. **Coordinate with Topeka Housing Authority (THA), Police and Fire Departments to share problem property information.** Collaborate with THA, Police and Fire to share information about problem properties. This allows for information and feedback that elevates issues and stops treating each incident as a one-off violation. In interviews and focus groups the same names of bad landlords came up repeatedly often with horror stories about how a landlord cycled several families through a dangerous housing unit where wiring was hanging from the ceiling or sewage filled the basement. Where the Housing Authority discovers such an owner and no longer allows housing vouchers to be used at the owner's properties, this information is critical for the city to know. By sharing information among agencies, the city can identify problem-plagued properties sooner.
9. **Leave flyers and educational information at multi-family buildings where violations are found to educate tenants living in similar conditions.** Education materials informing tenants of their rights should be regularly shared with tenants particularly where violations found in some units probably exist in others as well.
10. **Partner with nonprofits and community to serve vulnerable tenants.** Working with non-profits and community leaders is a critical tool to ensure vulnerable tenants live in safe, decent conditions. Community and non-profit groups can identify and help vulnerable tenants that may be too afraid to involve the city because of their status as a recent immigrant or ex-offender. These trusted partners can help by informing tenants of their right to complain, explaining the process, and even filing the complaint so the tenant does not risk the wrath of their landlord.

Best Practices

- Syracuse has created an internal checklist to ensure consistent inspection protocols for the interiors of housing. <http://www.innovatesyracuse.com/blog/toppilot>
- Many cities and states require a landlord to disclose code violations to tenants prior to their signing a lease. Chicago requires all landlords upon lease signing or renewal to notify tenants of any code violations for which the rental unit has been cited within the prior 12 months.⁶⁴ Wisconsin requires a landlord to disclose to prospective tenants violations of local building and housing codes that present a “significant threat to the prospective tenant's health or safety before entering into a new rental agreement.”⁶⁵ Owners who then retaliate have the burden of proof to show that this tenant did something illegal or in breach of contract. Minnesota requires a landlord to disclose any outstanding inspection orders, condemnation orders or declarations that a property is unfit prior to a tenant signing a lease or paying a security deposit.⁶⁶ Rhode Island requires landlords to disclose housing code violations they have been notified of but have not corrected.⁶⁷

⁶⁴CHI., ILL., MUN. CODE § 5-12-100 (1990).

⁶⁵91 WIS. STAT. § 704.07(2)(b); Wis. Admin. Stat. § 134.04

⁶⁶Minn. Stat. Ann. § 504B.195

⁶⁷R.I. Gen. Laws § 34-18-22.1.

KEY FINDINGS & RECOMMENDATIONS

- Los Angeles partnered with a community organization that agreed to visit tenants prior to an inspection and explain the law and the tenant's rights. Where the non-profit visited the tenant prior to an inspection, the inspectors gained access to 80% of homes compared to 20% of homes without this pre-visit.⁶⁸
- Syracuse provides guided tours for service providers who have better access to Syracuse's refugee populations to provide "an extra pair of eyes" for dangerous and unhealthy housing conditions and help to grow trust in the code enforcement process in return for commitments that tenants will not be displaced.⁶⁹
- In San Francisco, inspectors meet monthly with neighborhood groups and community leaders who have the authority to file complaints for substandard rental housing conditions and remove some of the burden from vulnerable tenants.⁷⁰

Recommendation Three: Educate Owners and Tenants about their Rights and Responsibilities and Work with the Community.

Educating owners and tenants about common conditions that violate the code and available assistance is a critical ingredient of code compliance. Currently Topeka does not directly offer owners or tenants any written educational materials that make clear why property maintenance is important, what conditions violate the code, what the consequences will be for failure to meet the code, what the steps are and what the timeline will be. Owners do not always fail to comply with basic property maintenance standards due to defiance or carelessness or even an inability to afford the repairs. For some, their actions may be based on a lack of knowledge that the condition is prohibited or how to remedy the violation. The best way to achieve compliance is to inform owners and tenants what the city's laws require so they can avoid ever receiving a violation notice. Topeka needs to ramp up the education component of its code compliance to prevent violations before they happen. All educational materials, forms, and notices should be available in Spanish and English.

Education and community involvement should also be the new emphasis of the Property Maintenance Department's role in Team Up to Clean Up – a program to bring resources to neighborhoods but should not leave them with hundreds of violations when the program ends. Instead, it should be used as an opportunity to point out potential violations so owners can fix them before receiving a notice of violation, remediating code violations with volunteers and generally working to ensure that owners and tenants understand their obligations to care for their properties.

Finally, education must also flow from the community to the city. When the city is defining its code enforcement priorities, it needs to speak to community members and find out which properties are inflicting the greatest harm on the neighborhood. Targeting properties that are the priority of the community both on Team Up to Clean Up days and every day puts resources where they are needed most to improve neighborhood quality of life.

⁶⁸Healthy Homes Collaborative. (2017) LA City Lead Poisoning Prevention Pilot Program.

⁶⁹City to offer first guided tour to educate on home safety, mysouthsidestand.com (June 6, 2018) <https://mysouthsidestand.com/more-news/how-to-spot-a-code-violation/>

⁷⁰Interview with San Francisco Deputy Director Dan Lowrey by Karen Black on January 7, 2020.

KEY FINDINGS & RECOMMENDATIONS

Recommendations

- 1. Draft educational materials and widely distribute.** The city should create, directly or through its partners, a series of user-friendly easy to read flyers and brochures that it can routinely share with owners, tenants and community leaders alerting them of their rights and responsibilities. Topeka doesn't have to reinvent the wheel to create these. Peer cities have great examples from which Topeka can learn. Through a mix of information in utility bills, postcards, social media, and guides on Topeka's website, Topeka can inform owners of maintenance expectations, advise them about the code enforcement process and make certain that anyone who wants to take care of their property but lacks the financial resources to do so has information about assistance programs.
- 2. Improve Team Up to Clean Up by putting community front and center.** Team Up to Clean Up is an innovative program that brings a set of standardized resources to a targeted neighborhood including code enforcement resources. Community and nonprofit leaders acknowledged its potential but noted that if Team Up to Clean Up comes to your neighborhood it means that code inspectors will perform a full proactive neighborhood sweep of exterior violations and then leave the neighborhood with hundreds of citations that owners do not have the capacity to fix. In addition, Team Up to Clean Up comes to the neighborhood with an established menu of services that will be provided rather than asking the community what their needs are. Finally, neighbors are unclear what the goals and outcomes are for this program. Team Up to Clean Up can be improved greatly by partnering with neighborhood leaders to achieve community goals, issuing warnings rather than citations and providing education and incentives to owners to maintain their properties. Like Topeka's targeted SORT⁷¹ grant program or DREAMS program, the goal for this program is to provide a level of city investment to a specific neighborhood. Under the program, the focus should be on how the city can help the neighborhood make visible improvements that will have a positive impact. The city should provide neighborhood associations, property owners, and residents with information and education about violations inspectors will be looking for and when inspectors will be coming to their neighborhood in advance of a coordinated inspection. Neighbors should then be provided with a door hanger notifying them of violations rather than violation notices and give owners ample time to make repairs before an inspector returns. The city could also provide positive thank you door hangers to residents who care for their property to thank them for their contribution. The city could also consider providing incentives for owners from a coupon to the local hardware store to agreeing to bring in volunteers who will help Senior owners clean up their yard. Each neighborhood should be asked what it wants from the city and from code enforcement. If it names its top three eyesore properties, then the city can plan to abate one of those during Team Up to Clean Up to show visible and tangible signs of improvement directed by the community's needs.

Best Practices

- Several cities have user-friendly photo-filled easy to read flyers specifying why code enforcement is important and what violations inspectors are looking for. Examples of

KEY FINDINGS & RECOMMENDATIONS

educational materials that might serve as a model include the “Housing Code Enforcement Handbook” developed by the Montgomery County (MD) Department of Housing and Community Affairs.⁷² Other brochures or flyers that provide information about code violations in a clear and helpful manner include a flyer from Augusta KS⁷³, Tallahassee Florida⁷⁴, Mesquite Texas in Spanish and English⁷⁵ and Palestine Texas brochure.⁷⁶

- Minneapolis All Together Now Program is a program similar to Team Up to Clean Up but with a greater focus on community involvement. Minneapolis hired a community engagement specialist to work with the neighborhoods and residents. They also have a budget to provide education and communication to residents. Finally, they meet several times with neighborhood leaders to ask what the neighborhood needs. For example, some neighborhoods want data on property condition while others want a trash truck for a day to handle dumped trash.⁷⁷

Recommendation Four: Use City Abatement Resources Strategically

The city performed 8000 abatements with public tax dollars from 2015-2021 and has the opportunity to abate conditions more strategically. Property Maintenance did this using staff, two inmate crews (although only one more recently) and the Public Works Department on occasions where their equipment was needed. 5300 abatements involved mowing tall grass. Most of the remaining abatements (2649) were for sanitation – removing trash and junk from yards. To abate a sanitation violation on private property, the staff must first inspect, notify owners, give owners an opportunity for a hearing, reinspect, apply to District Court for an administrative warrant and serve the warrant. One owner of 21 parcels benefited from 105 sanitation abatements over the six years from 2015-2021. The owner died in 2019 at the age of 94 leaving those properties vacant. Owners are charged up to \$8500 for a sanitation abatement. The average balance due or unpaid amount is \$421. The District Court issued 2290 administrative warrants to enter the exterior of a property to abate one or more code violations from 2015 to 2021. 66% of these warrants were to abate sanitation violations and 32% were to remove inoperable vehicles. No warrants were requested to enter the inside of a property and abate a health and safety violation such as a broken furnace in a home that lacks heat. Topeka can improve their abatement targeting or processing to use public dollars more strategically.

⁷¹Stages of Resource Targeting grant first awarded in 2004.

⁷²<https://www.montgomerysquare.org/file/document-page/342243645/17RbFxfHS34fOvmp.pdf>

⁷³City of Augusta KS, Code Enforcement Explained Brochure <https://cms2files.revize.com/augustaks/Code%20Enforcement/City%20of%20Augusta%20Code%20Enforcement%20Brochure%20Version%202.pdf> downloaded July 11, 2022.

⁷⁴Common Violations and Tips, Tallahassee Florida government website <https://www.talgov.com/Uploads/Public/Documents/code/commonviolations.pdf> downloaded July 11, 2022.

⁷⁵City of Mesquite Texas “Is your residence up to code” Gatefold Brochure <https://www.cityofmesquite.com/DocumentCenter/View/8231/Mesquite-Code-Gatefold-3-38-final?bidId=> downloaded July 11, 2022.

⁷⁶Palestine Texas “What is a Code Violation” <https://www.cityofpalestinetx.com/257/Code-Enforcement> downloaded July 11, 2022.

⁷⁷Evidence-Based Policy Making: An Analysis of Six Strategies to Stabilize Neighborhoods, May 8 Consulting and Reinvestment Fund for Fannie Mae (2021) <https://www.may8consulting.com/evidence-based-policy-making-an-analysis-of-six-strategies-to-stabilize-neighborhoods/>

KEY FINDINGS & RECOMMENDATIONS

Recommendations

- 1. Respond swiftly where violations on a property with a prior abatement begin to appear.** When it is determined that the same or similar violation exists on a property within 24 months of a prior abatement, the property owner should immediately be sent a notice of violation, assessed a fee, and allowed 10 days to correct the violations. Citing the owner early encourages compliance before abatement becomes costly. The goal is to cite the owner quickly when the first tire is stacked in the front yard and not to wait until there are 80 tires that have built up once again and require costly abatement.
- 2. Pilot owner incentives program.** The city can create a series of inexpensive incentives for owners to address sanitation or vehicle violations. The goal is to give the owner capacity to abatement violations by offering free access to equipment or reduced landfill fees. There is still a cost to the city, but that cost is much lower. Some options are discussed in the best practices section.
- 3. Explore the meaning of “shall” in K.S.A. 12-1617e and determine whether a change to state law is needed to provide the city with greater discretion as to when to abate violations.** State law K.S.A. 12-1617e states that the city “shall proceed to have the things described in the order removed and abated from the lot or parcel of ground.” The city Law Department should explore whether “shall” requires the city to abate, and if so, whether there is interest in amending this law and replacing the word “shall” with “may”. Having this added flexibility will allow the city to more strategically use limited abatement resources.
- 4. Review and amend fee waiver policies.** The city should establish objective criteria that Collections, Property Maintenance, Administrative Hearing and Municipal Judges should all apply to determine whether a waiver is appropriate. Topeka spent \$2.2 million on abatements and \$1.4 million (64%) were repaid by owners from 2015-2021. Sanitation abatement costs are paid back by the owner 79% of the time, and Weeds are paid back 68% of the time. It is Unsafe Structures that has the lowest percent of owner reimbursement because the abatements typically involve demolition and the property has little value to the owner or they would not have allowed it to enter that advanced state of deterioration. Compared to other cities, this is a robust collection rate. For example, New York City tracks collections and found that it collects only about 8% of total code enforcement fines and fees imposed.⁷⁸ Toledo Ohio has a collection rate of less than 20%.⁷⁹ High Point NC has a 15% collection rate.⁸⁰ Much of Topeka's success can be attributed to its ability to add abatement costs to property taxes, an effective collection method available in a minority of states such as New York and Kansas. Even with a relatively successful collection program, the diversion of owners with financial or medical hardship outside the typical enforcement route gives the city an important moment to strengthen its collection policies and limit waivers. Collections waived 24% of fees or \$540,000 from 2015-2021. The city waived 12% or \$267,000.

⁷⁸Grace Ashford, Leaks, Mold and Rats: Why New York City Goes Easy on Its Worst Landlords, New York Times (Dec 26, 2018) <https://www.nytimes.com/2018/12/26/nyregion/nyc-housing-violations-landlords-tenants.html>

⁷⁹Matt Kreis and Karen Black, A More Strategic, Equitable Approach to Housing and Building Code Enforcement In Toledo, Ohio (January 2021) https://cdn.toledo.oh.gov/uploads/Toledo-Code-Enforcement-Assessment_Final.pdf

⁸⁰Chris McLaughlin, Fighting Blight with Property Tax Bills (May 16, 2017) <https://ced.sog.unc.edu/2017/05/fighting-blight-with-property-tax-bills/> downloaded July 19, 2022.

KEY FINDINGS & RECOMMENDATIONS

Best Practices

- City of Oakland CA immediately assesses fees and allows a shorter timeframe to fix violations where the same or similar violation was already abated within the last 2 years.⁸¹
- A number of municipalities offer help to give owners the capacity to abate conditions on their own. For example, Newton Kansas offers coupons to dump trash at the landfill during a specific period of time to encourage action.⁸² Newtown also offers low-cost rental of a roll-off dumpster to encourage owners to remove bulk materials themselves like Newtown Kansas.⁸³ Cities like San Jose have established a junk pickup program where owners can make an appointment and have scrap metal and other items (other than construction debris) picked up for free.⁸⁴
- Jackson County Florida has assembled a group of volunteers willing to help low-income Senior homeowners who are physically unable to perform the work needed to remove derelict cars and junk from their yard. Owners must promise to maintain the property and not fill it with junk after it has been cleared out.⁸⁵

Recommendation Five: Identify, Register and Take Action to Reactivate Long-Term Vacant Problem Properties

Topeka is unsure how many long-term vacant properties there are in the city. The city does know that vacant houses attract crime, vandalism, blighting impacts and costs the city over \$30,000 more in fire, police, property maintenance and other services per city block compared to those without an abandoned house.⁸⁶ While lack of occupancy, even for an extended period, does not by itself mean that the property is not code compliant, long-term vacancy predictably leads to neglect and decay. Signs of vacancy also invite crime and vandalism as thieves take the copper piping and wiring right out of the walls for resale as scrap. As a result, police, fire, and emergency medical personnel often must enter potentially dangerous spaces with little guidance as to structural defects or occupants.

Most long-term vacant properties are privately owned with the city owning only 278 parcels.

On February 11, 2022, Bryson Risley, Planning Analyst with City of Topeka, visually confirmed what was on each of these 278 parcels and found that only five of these parcels are residential and have a house structure located on them. 114 are vacant without a structure but only 29 of these are potentially buildable. 98 of the total parcels are in a floodplain.

⁸¹Private Property Complaints and Code Enforcement Services, City of Oakland Official Website <https://www.oaklandca.gov/topics/private-property-complaints--code-enforcement> downloaded July 19, 2022.

⁸²Free Landfill Coupons, Newtown Kansas Website <https://www.newtonkansas.com/departments/public-works/trash-recycling/free-landfill-coupons> downloaded July 13, 2022; Bulky Waste Coupons are Back, Sedwick

County Press Release (July 18, 2014) <https://www.sedgwickcounty.org/communications/news-releases/bulky-waste-coupons-are-back/>.

⁸³Roll-Off Dumpster Rental, Newtown Kansas website <https://www.newtonkansas.com/departments/public-works/trash-recycling/roll-off-dumpster-rental> downloaded July 13, 2022.

⁸⁴Junk Pickup, City of San Jose Website Page under Recycling and Garbage <https://www.sanjoseca.gov/your-government/environment/recycling-garbage/junk-pickup> downloaded July 13, 2022.

⁸⁵Deborah Buckhalter, Help offered for struggling Jackson County code violators JCFloidian May 28, 2020. https://www.dothaneagle.com/jcfloridan/news/local/help-offered-for-struggling-jackson-county-code-violators/article_8f2e7db9-4414-5056-aa8a-27177d3fa5af.html

⁸⁶Corinne Bannon and Erica Wilt, Effects of Abandoned Housing on Communities Research Report for the City of Topeka (June 2016).

KEY FINDINGS & RECOMMENDATIONS

The city attempted to obtain a good list of vacant properties to allow for better monitoring for squatters, fires, criminal activity, and other harmful activities through the passage of a vacant property registry law and the hiring of a for-profit, out of town company to identify vacant properties. The vendor, Pro Champs, failed to identify these properties well citing many owners of seasonal properties in good condition or with temporary vacancies. Pro Champs did allow the city for the first time to identify properties in mortgage foreclosure and insist that lenders care for their properties. This is extremely important because where lenders foreclose on a property there is typically a period of disinvestment before the property passes to a new owner, where it is important to ensure the lender will take responsibility for maintaining and securing the property. Significantly, a 2019 study found that having a vacant property registration ordinance in place halved the negative impact of a foreclosure on surrounding properties by requiring owners to maintain those properties.⁸⁷ The city has also discussed the possibility of establishing a land bank under Kansas state law to hold, manage and sell publicly owned vacant properties but has not taken action to date. Currently the only method to obtain a property that is long-term vacant and a nuisance is through purchase or county tax sale where a property is also tax delinquent. The county does not take many vacant delinquent properties to tax sale each year. The county sold 103 Topeka residential properties between 2016-2021 for an average sale price of \$8,465. This represented 13% of all tax delinquent residential properties.⁸⁸

Recommendations

This assessment recommends a two-part action plan for identifying and taking action to reactivate vacant properties. Topeka has relatively few vacant and abandoned properties in city ownership. Currently the city has only five parcels with structures and 29 potentially buildable lots. Before establishing a land bank, the city may be better served by trying the more limited interventions detailed below to test their effectiveness.

- 1. Initially, identify vacant properties and enforce vacant property registry law.** The city needs to continue its efforts to create a good list of vacant properties using its vacant property registry law⁸⁹ and collaborating between community groups, city departments and residents. Nationally, hundreds of cities, counties, and towns have adopted vacant-property registration ordinances (VPROs) that require owners of vacant properties to register them with their municipalities and maintain the properties in accordance with local codes.⁹⁰ VPROs help local government identify owners, track property condition to ensure the safety of surrounding properties and first responders, and finance proactive efforts to ensure the properties remain up to code through an annual fee to cover costs of regular inspections and complaint response. Topeka's initial effort to outsource this function failed but the city should work to register vacant properties and create an accurate list.

⁸⁷Arnab Biswas, Chris Cunningham, Kristopher Gerardi, and Daniel Sexton, Foreclosure Externalities and Vacant Property Registration Ordinances, Federal Reserve Bank of Atlanta Working Paper 2019-20 (November 2019).

⁸⁸Topeka Land Bank Ordinance/Pilot Discussion (pt.1) PowerPoint dated 03-15-2022 Updated, City of Topeka, sent on July 12, 2022 by Bill Flander, City of Topeka Planning and Development Department.

⁸⁹Topeka Municipal Code 8.65 Registration of Vacant Properties <https://topeka.municipal.codes/TMC/8.65>

⁹⁰Lee, Terranova and Immergluck, New Data on Local Vacant Property Registration Ordinances, Cityscape Volume 15, Number 2 (2013) <https://www.huduser.gov/portal/periodicals/cityscpe/vol15num2/ch22.pdf> (lists 19 Missouri municipalities with vacant property registration ordinances); Mortgage Contracting Services, Search Criteria by Ordinance Name for State of Missouri <https://www.huduser.gov/portal/periodicals/cityscpe/vol15num2/ch22.pdf> (National mortgage services company tracks standards for mortgage foreclosed properties in localities across the country.)

KEY FINDINGS & RECOMMENDATIONS

- a. **Share information on problem vacant properties among city departments.** Not only will this help to create an accurate list of vacant properties, but it will protect first responders. Vacant properties with criminal activity, squatters or fires should be prioritized for action by the city due to the dangers they present.
- b. **Prioritize worst vacant properties identified by residents and community groups.** Invite residents and community leaders, the experts on their neighborhood, to identify the vacant properties that have the greatest harmful impact. The city needs to prioritize the properties that are doing the most harm to abate the nuisance, hold the owner responsible or use tax foreclosure sales to transfer the property to a new owner.
- c. **Waive fee where owner agrees to bring property into compliance within six months** or the owner enters into a restoration agreement to reactivate the property within a set period of time. While the registration fee provides a needed incentive for some owners to pay attention to their property and keep it in decent condition, once an owner is actively working on the property, it may make sense to waive the fee.
- d. **Methodically obtain updated, accurate ownership information.** Topeka has a property system where you are supposed to be able to look up who owns a property. Yet when an owner dies, the ownership information may not be updated. Where LLCs are the owners, they are required to register with the state and list registered agents to contact, but the registered agents change frequently, and records may reflect an agent long since gone from the company. In addition, some LLCs in Topeka have effectively gone out of business without selling the properties, leaving property ownership in limbo. The city should hire college interns to perform ownership searches like Philadelphia and Memphis have done. Research on a vacant property detailed as a case study in this report found that the city repeatedly sent notifications to a deceased owner for years without connecting with his heirs or receiving a response. That reflects more than a waste of postage, it is a waste of staff time and achieves nothing. Updated accurate ownership information is a critical tool to achieving better property maintenance.
- e. **Provide clear minimum standards for securing and protecting vacant buildings.** Long term vacant properties can be code compliant so long as the properties are safely cleaned and sealed and maintained in compliance with the Property Maintenance Code and Nuisance Codes. It is important for an owner of a vacant structure to protect it from the weather and to secure it from crime and vandalism as well as rodents and other pests. A vacant building cannot survive indefinitely in a boarded-up condition, but it can be secured for a period of years. Real windows and doors on all openings are preferable but weatherproofed plywood does satisfy the law. The city should clearly set out the minimum procedures for mothballing a property and share them widely. Harlem Georgia's Vacant Property Registration and Renewal [Form](#) offers a good example and Topeka stakeholders suggested state and local forms could be quickly amended for this purpose.

KEY FINDINGS & RECOMMENDATIONS

The city should also provide information about low cost recommendations that will improve the aesthetics of the house such as using a paint on the plywood that matches the color of the house and will deter squatters such as using bolts rather than nails to secure the boards in place. Property Maintenance reports that there are a relatively small percentage of vacant properties that are repeatedly broken into and vandalized and that become the site of crimes and fires. Through better sharing of information and collaboration between Property Maintenance and the Housing Authority and Fire and Police departments as discussed in Recommendation 2, the city should quantify these chronic nuisance properties and potentially create new more rigorous requirements to secure and maintain these properties to protect the safety of neighboring properties from continuing vandalism and trespass.

- f. Inspect long-term abandoned properties for hazards.** The city should explore the creation of a separate inspection protocol for long-term abandoned properties. Currently Property Maintenance uses the same standard to define their right to enter to inspect a long-term abandoned property as an occupied property. Yet, courts have held that there is a lower expectation of privacy in long-term abandoned properties⁹¹ and the Fire Code also specifically authorizes fire safety inspectors to enter an abandoned building to safeguard life and property, imposes specific requirements as to how vacant buildings must be secured and placarded, and prohibits the accumulation of flammable materials such as waste or rubbish.⁹² The city should work with the City Attorney to explore when and how city inspectors may enter an abandoned property to ensure that the property is secured, safe and does not pose a threat to neighboring properties.
- g. Work with County to increase transfer of vacant properties at tax sale.** Work with the county on Recommendation 11 to bring more vacant properties with delinquent taxes to tax sale where neighboring owners or qualified investors are interested in buying the property.

2. Determine Whether a Land Bank is Needed to Reactivate Vacant Properties. Where the actions in Step One fail to reduce the number and negative impact of vacant properties, the city should explore the creation of a land bank.⁹³ A land bank is an independent agency with authority to acquire, hold, manage, and convey abandoned, tax-foreclosed, or otherwise underutilized or distressed property in order to convert such properties to productive use. Kansas law allows the land bank to hold, maintain and manage publicly owned properties. It is up to Topeka whether the land bank will acquire properties with houses or only take vacant land. The huge benefit of a land bank is that it can acquire properties inexpensively by wiping all past due taxes without the need to go through tax sale and can transfer properties to qualified buyers for specific purposes.⁹⁴ Land banks are not self-financing so it will require a budget and staff.

⁹¹The courts have held that voluntarily abandoned property cannot support a reasonable claim of privacy or possessory interests, and so there can be no “search” or “seizure” of such property in the Fourth Amendment sense. See, e.g., *Hester v. United States*, 265 U.S. 57, 58, 44 S.Ct. 445, 68 L.Ed. 898 (1924) (contraband liquor discarded in a field); *Abel v. United States*, 362 U.S. 217, 241, 80 S.Ct. 683, 4 L.Ed.2d 668 (1960) (contents of wastebasket in vacated hotel room); and *California v. Greenwood*, 486 U.S. at 35, (trash left for collection at the curb); *State v. Brunson*, 13 Kan. App.2d 384, 394-95, 771 P.2d 938, rev. denied 245 Kan. 786 (1989) (car abandoned on golf course).

⁹²2015 International Fire Code Section 311 Vacant Premises.

⁹³City authorized to establish a land bank authorized in 2009 K.S.A. 12-5901 et seq.

⁹⁴When a land bank acquires a property the county treasurer will remove all taxes from the tax role including assessments, charges, penalties, and interest that are due on the land. The only exception is the special assessment that is up to the city to decide whether to waive.

KEY FINDINGS & RECOMMENDATIONS

To define whether Step One has been effective and whether a land bank is needed, the city should use the key metrics like the following:

- How many properties are publicly owned?
- Does the city seek to ramp up the pace of public acquisition of properties? Does the city seek to accept donated parcels again?
- How many of the city's vacant properties are tax delinquent? Is the county bringing a significantly higher number of vacant properties to tax sale?
- Are the tax sale properties being purchased or is the cost of ad valorem taxes prohibitive?
- Are the tax sale properties being purchased by responsible owners who reactivate the property and achieve code compliance? Does the assessed value of the properties increase in the first three years of ownership?
- How many vacant properties have substantial code enforcement liens but are tax compliant?
- How many vacant properties have interested buyers? How many properties require an entity to temporarily hold and maintain the property until demand increases?
- Is there a specific development need that the city has identified as critical that the private market is not meeting due to high land acquisition costs?

Case Study of a Long-Term Vacant Property

A 776 square foot single-family house in North Topeka East is long-term vacant. The one-story house built in 1907 has 2-bedrooms, 1 bath and a 2,775 sq ft lot. The current owner of record bought the property in 2003 for \$14,000. Its appraised value in 2021 was \$17,760. Water service was terminated to this property in June 2003. It appears to have been vacant for almost twenty years.

The property was cited 23 times from 2015 to the present. The city mows the yard each summer, reseals doors that are left wide open when people illegally enter the house, and spent more than \$1000 for three separate abatements to remove junk and trash from the yard. The city unsuccessfully prosecuted the owner in Municipal Court when the siding began to fall off the house and windows became cracked.

On June 10, 2021, the city filed a housing case in Municipal Court. When the owner failed to appear in court, the judge issued a bench warrant. The owner, however, had passed away in February 2020. The owner left a wife and five children. The house is on the vacant registry list and the city has forwarded the property address to the Shawnee County Property Appraiser's office asking for it to be placed on the next tax sale list.

The city put substantial staff time into inspecting the property, mowing the lawn, clearing out the trash and holding arraignments for housing violations. Certified mail notice was sent to the owner at his last known Missouri address and the violation notice was posted on the property, but the letter was returned to sender and marked undeliverable. The last attempt to communicate with the owner was in April 2022 where he was sent an annual fee and penalty notice for failing to register his vacant property for \$375.

KEY FINDINGS & RECOMMENDATIONS

Best Practices

- Cities like Memphis Tennessee and Philadelphia Pennsylvania have used college interns to research the ownership of vacant properties where the city's information is dated and inaccurate.
- The City of Lansing Michigan's Neighborhood Enhancement Action Team (NEAT) tags and tracks vacant properties that are unsafe for habitation based on internal or external conditions. A tagged property is transferred to the NEAT program after 90 days of noncompliance. For every month that the violations are not addressed, the landlord incurs a \$150 fee. Property owners are not charged the fee if they can demonstrate progress toward habitability. This incentive has had a dramatic effect on the number of tagged properties in the city, which has steadily decreased from 740 in 2007 to 362 in 2013 (224 of which were NEAT properties).⁹⁵
- Minneapolis Minnesota enters into a restoration agreement with owners of vacant or condemned properties and waives its Vacant Building Registration fee if the property is brought into code compliance within six months.⁹⁶

Recommendation Six: Welcome Investment by Providing Clear Rules for What Repairs an Owner Can Perform

Investors in rental housing are arriving in Topeka. The city is seeing national real estate investment companies come to build apartment complexes⁹⁷ and developers buying up hundreds of single-family homes for rental within the last year. These new investors tend not to “flip” houses to new homeowners since the value of these homes and buildings are too low to support a quick profit, but instead are becoming long-term investor landlords and are buying, repairing, and leasing the units out. As one developer landlord interviewed for this assessment stated, “there is a lot of money in renting to poor people.”

Small developers identified the largest cost barrier to acquiring and leasing single family houses as the price and availability of licensed contractors to perform roofing, electrical and plumbing work. Investor owners are required to obtain building permits and to use licensed contractors such as electricians and plumbers to complete the rehabilitation of the unit and to bring it up to code.⁹⁸ Several owners stated that the rehabilitation cost climbs considerably because of high licensed contractor bids in part due to their disinterest in working on small jobs in low-income neighborhoods. They argue that the licensed contractor requirement makes it impossible to reclaim older units in poor repair and make them available to tenants.

⁹⁵A Guide to Proactive Rental Inspection Programs, ChangeLab Solutions (2014) https://www.changelabsolutions.org/sites/default/files/Proactive-Rental-Inspection-Programs_Guide_FINAL_20140204.pdf downloaded July 26, 2022.

⁹⁶When Investors Buy Up the Neighborhood, PolicyLink (2010) http://estatedocbox.com/Buying_and_Selling_Homes/88020143-Assessment-tool-analyzing-existing-and-potential-strategies-to-prevent-irresponsible-investor-ownership-from-causing-neighborhood-decline.html downloaded July 26, 2022.

⁹⁷For example, Denver-based Flywheel Capital, LLC, to demolish the former Holiday Inn Holidome at 605 S.W. Fairlawn and create an apartment complex on the site. Tim Hrenchir, Calling it a positive 'first step,' Topeka mayor and council OK recommended police reform moves, Topeka Capital-Journal (July 13, 2022) https://www.cjonline.com/story/news/2022/07/13/topeka-mayor-city-council-approve-eight-police-reform-recommendations/10026724002/?utm_source=cjonline-DailyBriefing&utm_medium=email&utm_campaign=daily_briefing&utm_term=list_article_thumb&utm_content=NTCJ-KANSAS-TOPEKA-NLETTER65 downloaded July 13, 2022.

⁹⁸Chapter 14, section 10.020

KEY FINDINGS & RECOMMENDATIONS

As a result, one developer said they do not obtain permits from the city because they cannot pay high wages to contractors and make a profit. Further all work must be inspected by the city, so they argue that there is a check in place to ensure the work is done right.

The city requirement to use licensed contractors is common across the country. The goal is clear: to ensure houses for rental are safe and do not pose a safety risk to tenants. Certainly, the requirement raises costs, but it also ensures that the electrical wiring does not pose a fire hazard or adding a new door doesn't cause the upper floor to collapse.⁹⁹ In addition the requirement is not sufficient to dissuade developers from investing in Topeka residential properties as many new investors have come to Topeka within the last two years. They are buying up and renting properties because the houses and apartment buildings are inexpensive to purchase and they can make a profit even though Topeka rents are relatively low. Finally, because state law doesn't allow Topeka to systematically enter and inspect each rental unit on a periodic basis, this requirement is important to ensure the safety of tenants. For these reasons, this assessment recommends that the city clarify what work an owner can perform but do not eliminate the licensed contractor requirement.

Recommendation

- 1. Clarify rules for repairs owner can perform and those repairs that must be completed by a licensed contractor.**

The city can make the cost of repair more predictable and consistent by being clearer as to exactly what tasks an owner can perform themselves and which they must hire a licensed contractor to complete. New Jersey did so recently with the express purpose of keeping costs down for the reactivation of vacant houses into affordable housing.

Another option suggested by several developers is to allow owners to perform the work but to ensure quality control with rigorous inspection protocols. The city could make this policy change, but it will increase the need for the city to perform multiple inspections for relatively small projects when it is important to inspect when the work is visible and expands the city role in eliminating dangers from unsatisfactory work.

Best Practice

New Jersey clarified and expanded the list of items an owner can perform as "minor work or ordinary maintenance" without a permit and without using licensed contractors in order to lower the cost of the construction of affordable housing.¹⁰⁰ Owners can make most changes that do

⁹⁹San Antonio found many dangerous conditions where owners tried to do work themselves with no permits. Shari Biediger, City Targets Home Flippers and Contractors Who Sidestep Permitting, San Antonio Report (January 24, 2020) <https://sanantonioreport.org/city-targets-home-flippers-and-contractors-who-sidestep-permitting/>

¹⁰⁰"Significant Changes to Minor Work and Ordinary Maintenance, Adopted in the March 5, 2018 New Jersey Register https://www.nj.gov/dca/divisions/codes/alerts/pdfs/OM_MW_03052018.pdf downloaded July 17, 2022.

KEY FINDINGS & RECOMMENDATIONS

not involve structural modifications, will not increase the electrical load of the home, and where there is no rearrangement of piping systems. It allows owners to perform roofing, siding, replacement of appliances and range hoods and plumbing fixtures, water heater installation, and rewiring if new wiring is the same capacity as the existing wiring. New Jersey “reassessed its requirements because it believed that the process for these smaller projects was unduly burdensome on building owners, particularly homeowners, as well as on the workload of municipal building departments without a commensurate benefit to the safety of the public.”¹⁰¹

Recommendation Seven: Strengthen Data Collection and Analysis

The city has a robust data platform called MyGov for keeping code compliance information but tracking additional data and keeping it in separate structured fields will improve the city’s ability to be strategic. Topeka uses the database to record each complaint, inspection, violation, communication, and action intended to resolve a violation. Having the right data can help the city to strategically direct resources to the most effective use, show a pattern of violations to the court, and measure results. It also allows the city to identify the types of violations that take up the bulk of limited staff resources, to understand the timeframe for complaint inspection and enforcement and to understand who the owners are of noncompliant parcels. Currently the city does not track cases by property type, owner type, enforcement approach, compliance or other outcomes in a manner that allows for changes to improve effectiveness.

Recommendations

- 1. Collect data on property type.** Property Maintenance currently does not classify individual properties by property type. Doing so will allow the city to identify, categorize, map, and analyze the different types of problem properties and develop a shared understanding of the scope, scale and nature of the challenge. Property types should include, at a minimum: vacant residential building; vacant commercial building; vacant lot; owner-occupied, single-family home; 1- to 4-unit rental building; 5+ unit rental building; condominium; and mixed use.
- 2. Collect data on owner type and record ownership information in structured data fields.** Topeka will also benefit from keeping information on types of owners for each property where that information is available. Property owner types should include, at a minimum: individual; partnership; corporation or LLC; bank or financial institution; and public entity. This will allow the city to track the types of owners that are responsible for code enforcement cases and the effectiveness of its efforts at achieving compliance. In addition, the city should keep information as to the specific name of the owner, property manager and their contact information in distinct structured data fields. Currently they are kept within a text field that makes a search or data analysis of this information time consuming and probably inaccurate. In addition, inspectors record ownership information with many different spellings and iterations for the same name and address all in a single field. Having ownership contact information that is easily searchable will also be important for the city to identify chronic violators and consolidate their cases for the court quickly and accurately.

¹⁰¹David Matthau, So You Want to Fix It Yourself? NJ Considers Easing Permitting Rules, New Jersey 101.5 (November 28, 2017).

KEY FINDINGS & RECOMMENDATIONS

- 3. Record all contacts with owners or complainants.** The data the city maintains does not tell a comprehensive story about a code enforcement case. First the source of the complaint and the method by which they file a complaint (e.g., phone call to 311) is not recorded. (Although it is important to allow for anonymous complaints.) Informal notifications to owners are not typically recorded either. City records track the last hearing date but do not record how many continuances were granted. By standardizing the recording of all contacts within MyGov, the city will obtain a truer picture of how residents are filing complaints, what actions are being taken and the timeline for doing so.
- 4. Define and record outcomes of cases clearly.** During the analysis of code enforcement data files for this report, it became clear that data regarding status and outcomes are categorized too generally. For example, cases can be counted as closed for multiple reasons, some which mean that the violation is remediated and some which do not.

Currently voluntary compliance is too broad a category making the 83% voluntary compliance figure far less meaningful. By breaking down vague categories, the city will better track the case outcomes and the approaches that are achieving compliance with the least number of staff hours, time, and expense.

Recommendation Eight: Update Job Descriptions for Inspectors to Lower Turnover and Improve Customer Service Skills, Hire A Housing Navigator, and Consider an Additional Support Staff Member

Staffing is an issue for the Property Maintenance Department. Like many cities, Topeka has a shortage of code enforcement officers due to a tight job market, high turnover, and the lack of a comprehensive strategy for recruiting and retaining staff. In addition, it needs staff dedicated to working with owners with a financial hardship to connect them to resources and build trust with the community.

Recommendations

- 1. Update inspector job description.** Job descriptions for code enforcement inspectors have changed over the years in many cities. In the past the goal was to find a professional who had significant expertise in building codes and construction. Little emphasis was placed on their customer service skills. As the construction industry saw extraordinary demand and local governments had difficulty competing with the private market for individuals with construction experience, many cities began to recruit individuals with good customer service skills and training them on-the-job to understand codes. While these individuals may not have the expertise to inspect new wiring installation within a house, they certainly can identify exterior conditions such as vehicles, weeds and sanitation violations that make up 80% of the inspector's current work and interior conditions such as running water, or heating. Where significant technical knowledge is needed to identify a violation, the inspector can call an inspector at the city's Development Services for a professional opinion. Topeka will benefit greatly from updating its job description to recruit and train a new generation of enforcement personnel that are both people-oriented and demographically representative of the communities they serve.

KEY FINDINGS & RECOMMENDATIONS

- 2. Add housing navigator position.** Finding the right person to work with owners with a medical or financial hardship who has great customer service skills and is multi-lingual will allow many more owners to be served with dignity and assisted to bring their property up to code.
- 3. Consider adding one additional support staff position.** Other cities have found that support staff—with the proper training—can play several vital roles freeing up inspector time. Staff members can proactively reach out to the owner after the property has been inspected to gain compliance and answer questions. In Rochester, New York, tasking support staff to conduct calls to owners who receive formal or informal notice of a violation has helped to resolve up to 50% of complaints.¹⁰² Interestingly, Rochester New York found that owners were more forthcoming with staff who did not have the authority to cite violations and they were therefore more successful in negotiating a resolution.

Best Practices

The city of Rochester code enforcement officer job description prioritizes customer service skills over technical knowledge and welcomes trainees.¹⁰³ The city has dramatically increased its potential inspector applicant pool by recruiting former schoolteachers, veterans and community organizers. The city also prioritizes multi-lingual applicants and values diversity in an important effort to ensure that inspectors can speak with and look like the communities that they serve. The city offers a two-year, cross-training and mentorship program that pairs veteran inspectors with new trainees to receive on-the-job training and so senior inspectors can share long-term relationships to ensure continuity and consistency.¹⁰⁴

Minneapolis has three tenant navigators on staff to work with residents living in the worst housing where code enforcement places them at risk of displacement. They help tenants understand their rights and options to obtain safer housing.

Recommendation Nine: Expand Multi-Family Common Area Fire Safety Inspections

The Fire Department obtained permission by owners or property managers to inspect the common areas of 953 multifamily buildings for fire safety since 2017– 693 were inspected in 2021. In return, Fire promised to provide advisory opinions and not to issue citations. The Fire Department launched this effort because 82% of Topeka fires since 2002 are in residential buildings. While 70% are in private houses, the 26% of fires in apartments endanger dozens of tenants live in a single building. The expectation of privacy is much less in the common areas of a multi-family building than in living spaces. The Fire Department has received a good response from owners. The primary difficulty is that so many properties have been sold to new owners that the Fire Department must physically go to the property and approach the owner or manager to determine who they are and obtain permission to enter. This is a particular concern because

¹⁰²December 2019 interview with Gary Kirkmire, Commissioner of the Department of Neighborhood and Business Development in Rochester, NY.

¹⁰³Code Enforcement Officer Trainee Job Description, Job\Searcher <https://jobsearcher.com/j/code-enforcement-officer-trainee-at-city-of-rochester-ny-in-rochester-ny-bOgY9xv> downloaded July 17, 2022.

¹⁰⁴Presentation by Dee Dee Walker, Minneapolis Tenant Navigator, Safe and Healthy Rental Housing, Reclaiming Vacant Properties National Conference (October 3, 2019).

KEY FINDINGS & RECOMMENDATIONS

the Fire Department would like to be able to quickly identify the owner should they arrive on the scene for a fire. In 2021, the most common violations that impact fire safety were fire doors that were blocked open on 318 occasions and fire extinguishers that were not located where they are required to be in 259 occasions.

Recommendation

- 1. Institutionalize program and reinspect where find fire safety violations.** The Fire Department should continue and institutionalize this program and inspect the exterior and common areas of all multi-family buildings for fire safety. The first inspection should continue to be educational and informative and not result in any citations, fines, or fees. Where serious violations are found, however, the Fire Department should reinspect to ensure the violations are eliminated. While the primary goal of the inspections is public education, where dangerous conditions exist that could endanger tenants in case of fire, a reinspection is essential to ensure that fire alarms and extinguishers have been placed in appropriate positions, exit doors are clear, and fire doors will prevent the spread of fire and other commonly found violations. During the routine inspection, Fire should make a reasonable effort to obtain the owner's and/or manager's contact information (email, hard copy or phone). This data will allow the city to establish direct contact with the responsible party of the property in case of a fire.

Best Practice

Overland Park¹⁰⁵, Manhattan, Shawnee¹⁰⁶, Great Bend¹⁰⁷ and many other Kansas cities routinely inspect all multi-family building exteriors and common areas to ensure they meet fire safety codes. A sample checklist for fire safety includes exits and egress, fire alarms and extinguishers and addresses displayed for first responders.¹⁰⁸

Recommendations Requiring a City/County Partnership

Recommendation Ten: Transfer Tax Delinquent Vacant Properties to Responsible New Owners at Tax Sale

Kansas law gives Shawnee County the discretion to bring a tax foreclosure action against any property where the amount of delinquent taxes is less than \$10,000 and the county brings about 150 properties to tax sale each year.¹⁰⁹ The cost to the county to provide legal notice to owners and take all requisite steps to bring a property to foreclosure is \$242.50 per parcel. The

¹⁰⁵<https://www.opkansas.org/city-services/police-fire-safety/police-fire-safety-licenses-permits-and-inspections/fire-inspections/>

¹⁰⁶ <https://www.cityofshawnee.org/departments/fire/i-want-to-request-an-inspection>

¹⁰⁷ <https://www.greatbendks.net/360/Fire-Inspections>

¹⁰⁸ Manhattan KS Department of Fire Services Property Maintenance Inspection Checklist <https://cityofmhk.com/DocumentCenter/View/41079/Interior-Checklist?bidId=> downloaded July 20, 2022.

¹⁰⁹ K.S.A. 79-2901. Action to Enforce Lien. Note also that this law gives the city the power to initiate a judicial tax foreclosure sale on properties that have remained delinquent for at least three years if the county fails to initiate proceedings.

KEY FINDINGS & RECOMMENDATIONS

county must ensure the property is vacant or abandoned for the period of time required under law prior to foreclosure. Properties eligible for the Tax Sale have delinquent taxes of at least (3) years for homestead properties, (2) years for commercial properties and (1) year for vacant and abandoned properties.¹¹⁰ The county also looks to maximize returns from sales and to put up properties for sale that will achieve interest from buyers and a good price. As a result, the county does not often put vacant lots up for sale. If a property does not sell, it reverts to the county.

The City of Topeka may request that a property be offered at tax sale. These properties must have no pending code enforcement violations. The county sold 158 tax parcels within Topeka at tax sale during the prior five tax sales beginning in 2016.¹¹¹ The number of Topeka parcels included within each tax sale ranged from 63 in 2016 to 12 in 2021. The law requires that properties that are offered at tax sale auction be provided to the “highest qualified bidder”.¹¹² All bidders must register with the city prior to sale. High bidders bought Topeka properties at tax sale for an average cost of \$9,850. There were 84 buyers from 2016-2021. Unfortunately, the majority of bidders who purchased multiple Topeka properties had code violations on their existing properties. Of the buyers who bought more than five properties at tax sale during this timeframe, 60% had code violation cases on other properties.¹¹³ When owners with a history of failing to take care of their properties purchase additional properties at county tax sale, it perpetuates the cycle of blight.

Recommendations

- 1. Sign City/County interlocal agreement to jointly maintain properties that fail to sell at tax sale.** Shawnee County restricts the number and type of tax delinquent properties brought to tax sale each year. A key reason is that, if there is not buyer, the county does not want to be holding and managing the properties and be responsible for code violations. Unfortunately, this means that many tax delinquent, vacant properties with blighting conditions remain in neighborhoods for years. By signing an agreement that would ensure that the city and county jointly care for any properties that fail to sell so the county does not have to worry about receiving code violation citations and taking on significant expense for maintenance, the city can encourage the county to offer more properties within the city borders.
- 2. Request that county require the “highest qualified bidder” to be code compliant on all existing properties.** The county and city’s shared goal is to ensure tax sale properties end up in the hands of “qualified” buyers with the capacity and intent to bring them up to code and pay their taxes. Shawnee County already requires all bidders to be tax compliant.¹¹⁴ By adding a requirement that the owner not have unresolved code

¹¹⁰KAN. STAT. ANN. § 79-2401a(a)(1).

¹¹¹County Tax Sales were held in April 2016, April 2017, July 2018, Sept 2019, and Oct 2021.

¹¹²https://www.snco.us/counselor/tax_sale.asp

¹¹³There were six buyers who bought more than 5 properties. Four of these buyers have or had code violations at other residential properties. The six buyers are Aaron Yelenick (Detroit), Collins Park Investments LLC, Cory Harter/Blue Key LLC, Dennis Stafford, Ebert Roofing and Kronos Construction LLC. Underlined buyers were cited for code violations at existing properties from 2015-2021.

¹¹⁴Shawnee County, Kansas Tax Foreclosure Sale – Bidder Instructions https://www.snco.us/counselor/document/Tax_Sale_Bidder_Instructions_2021.pdf downloaded July 20, 2022.

KEY FINDINGS & RECOMMENDATIONS

violations, the county will disqualify chronic violators and encourage owners to quickly bring their properties up to code compliance. The county can require the high bidder at tax sale for a Topeka property to sign an affidavit listing all properties in which they have an ownership interest and stating that they are code compliant and up to date on taxes. This affidavit can be shared with City and County staff who can verify the information within 7 days of sale. By doing so the county can curb predatory investment by making it more difficult for bad actor owners to secure additional properties to negligently manage.

Best Practice

Roanoke VA requires bidders at tax sales to complete a Tax Sale Bidder Qualification Form prior to tax sale asserting that they have paid all outstanding taxes and fees in full, and they have remedied all code violations for any properties they own in full or in part. Prospective bidders with outstanding weed or demolition liens; inoperable vehicle, vacant, derelict or house board-up violations; court violations; and any other code violations or delinquent city taxes, will not be allowed to purchase property at tax sales.¹¹⁵

Recommendation Eleven: Record Contract for Deeds as First Step to Increasing Transparency of Process that Often Harms or Defrauds Buyer

Topeka leaders report that contracts for deed or rent-to-own contracts make up a growing segment of homebuying contracts in the city.¹¹⁶ Under a contract for deed, the owner/landlord is the seller and the tenant is the buyer. The buyer makes regular payments to the seller, but the deed does not transfer until the final payment. The challenge is that many contract for deed arrangements are set up so the buyer will never actually become owner of the property but instead lose their downpayment, monthly payments and money spent on home repairs if they miss a single payment.¹¹⁷ For example, when the Pennsylvania Attorney General sued a company called Vision Property Management for its contract for deed practices, it found only 2% of the hundreds of buyers actually obtained a deed for the property. The remainder made payments for years and then lost every dollar that they put into the house.¹¹⁸

Contract for deed houses are important for effective code enforcement because they are sold “as is” and are typically in poor condition and owners attempt to make buyers responsible for all code violations and repairs, but the owner remains responsible under law until the sale is complete. The sellers also often charge predatory interest rates which Habitat staff say may be as high as 57%. Habitat is working with some owners who have been paying

¹¹⁵Roanoke Virginia Bidder Qualification Program <https://www.roanokeva.gov/1386/Bidder-Qualification-Program> downloaded July 20, 2022.

¹¹⁶Steve Vockrodt and Laura Ziegler, Contract for Deed: The promise of homeownership that often leaves Midwest buyers out in the cold, Kansas Reflector (March 5, 2022). <https://kansasreflector.com/2022/03/05/contract-for-deed-the-promise-of-homeownership-that-often-leaves-midwest-buyers-out-in-the-cold/>

¹¹⁷Report of the Judicial Council Advisory Committee on 2020 H.B. 2600 – Contracts for Deed (December 11, 2020). <https://www.kansasjudicialcouncil.org/Documents/Studies%20and%20Reports/2020%20Reports/HB%202600%20CFD%20Report.pdf> downloaded on July 6, 2022.

¹¹⁸Case Update: Major Victory For Pennsylvanians' Ripped Off By Vision Property Management's "Rent To Own" Scheme, PA Office of Attorney General (November 8, 2021) <https://www.attorneygeneral.gov/taking-action/case-update-major-victory-for-pennsylvanians-ripped-off-by-vision-property-managements-rent-to-own-scheme/> downloaded July 22, 2022

KEY FINDINGS & RECOMMENDATIONS

for the house for over ten years or a total price that is three times the value of the house. Further Topeka leaders report that landlord/sellers often initiate contract for deed agreements with multiple tenants always ensuring that the property reverts back to them. Habitat has also witnessed four cases where the seller/owner under the contract is not a legal owner and fraud is being committed. Unlike other home sales, those sold under Contract for Deed are not typically recorded and these invisible transactions put the buyer at risk of a later transfer or lien or a fraudulent seller while also placing the reliability of public land records and the ability to provide good title in question.

Recommendation

- 1. Require Contract for Deeds to be recorded with the County Register of Deeds for public view.** Contract for deed agreements are recognized as formal mortgages under most state jurisdictions and therefore need to be recorded to become legally binding. If the documents are not formally filed, then the buyers risk not having any legal recourse if they are treated unfairly or defrauded by individuals who are not the legal owners. This requirement will allow the city to quantify how many contracts for deeds exist and will allow inspectors and the court to hold the seller/owner responsible for code violations until the transfer of the property is complete.

Best Practices

States across the country require the seller to record the contract with the county recorder's office. For a detailed list see a summary of contract for deed statutes compiled by the National Consumer Law Center in 2021.¹¹⁹

¹¹⁹Summary of State Land Contract Statutes National Consumer Law Center (April 30, 2021). <https://www.pewtrusts.org/-/media/assets/2022/02/summary-of-state-land-contract-statutes.pdf> downloaded July 22, 2022.

METRICS FOR MONITORING SUCCESS

Topeka will benefit by adopting a series of data analysis guideposts to evaluate progress towards its goal of transparent and predictable code enforcement contributing to a culture of property maintenance in every neighborhood. Some metrics the city should routinely track to define the impact of changes to their process and law include:

Metrics for Monitoring Success
Achieving Owner Compliance
Number and percent violations resolved voluntarily by type
Number of violations resolved via abatement
Percent violations remedied without court involvement
Percent violations that require court proceedings
Number of owners who file hardship form
Number of owners with hardship who resolve voluntarily
Number of owners with hardship who receive assistance
Number of vacant properties registered
Number of residential properties with permits for renovation
Number of owners with more than 5 cases in 5 years
Number of properties with more than 3 cases in 5 years
Prioritizing Health and Safety Complaints
Number of fire safety inspections of multifamily property common areas
Number of complaints received from public
Number of complaints received from tenants
Number of interior inspections completed
Number of administrative warrants obtained for inspections of interior of units
Timeliness
Time from complaint to inspection
Time from case opened to voluntary compliance

METRICS FOR MONITORING SUCCESS

Time from case opened to abatement
Time from court filing to court case resolved
Reliable Ownership Information
Number and percent of notices returned as undeliverable
Number and percent of multifamily properties with accurate owner contact info in case of fire
Percent of LLCs with up-to-date registered agent information
Community and Owner Education, Engagement and Satisfaction
Number of user-friendly educational materials created
Number of forms/resources that are available in Spanish
Number of community organizations that have provided information about worst properties
Number of organizations helping to improve property maintenance
Financial Sustainability
Percent fines collected
Percent fines waived

CONCLUSION

Topeka has launched a critical initiative to create a Culture of Property Maintenance in the city. Code enforcement must play an integral role if it is to be a success. This assessment offers eleven recommendations to make code enforcement more effective and equitable. The goal for most of these reforms is for government, community, nonprofits, property owners and tenants to work together to lift the condition of Topeka's housing by setting clear expectations, inspecting to reasonable standards, and ensuring equitable outcomes. By doing so Topeka will become a healthier, safer city that encourages new investment and positive growth.

MAY 8 CONSULTING

may8consulting.com