

CHAPTER IV: BUILDINGS AND CONSTRUCTION

Article

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ARTICLE 1: FIRE LIMITS

Section

4-101 Fire limits established; construction within; penalty

§ 4-101 FIRE LIMITS ESTABLISHED; CONSTRUCTION WITHIN; PENALTY.

(a) The following shall be and is hereby declared to be the fire limits: all of Blocks no. 15, 16, 21, 22, 27, 28, 33 and 34, all within the original town of Smith Center, Kansas.

(b) Every building hereafter erected or enlarged within the fire limits shall be enclosed on all sides with walls constructed wholly of stone, brick, tile, terra cotta, concrete or cement block, except as otherwise provided by this section.

(c) Temporary one-story frame buildings for use of builders may be built within the fire limits; provided, however, that, such buildings shall not be located within 20 feet of any other building.

(d) No frame building shall be moved from without to within the fire limits or from one place to another within the fire limits. For the purpose of this section, a building shall be classed as frame when the exterior walls or portions thereof are wood; also, a building with wooden frame work veneered with brick, stone, terra cotta, tile or concrete, or covered with plaster, stucco or sheet metal shall be classed as a frame building.

(e) Any frame building within the fire limits which may hereafter be damaged by fire, decay or otherwise to an amount greater than 50%, exclusive of its foundation, shall not be repaired or rebuilt, but shall be removed.

(f) All buildings hereafter erected within the fire limits shall have the roof, top and sides of ail roof structures, including dormer windows and mansard roofs, covered with incombustible material. No existing wooden shingle roof within the fire limits shall be renewed or repaired with other than incombustible roof covering.

(g) Any party desiring to move or erect a building from materials not previously approved by this section, to a location within the fire limits of the city, as defined in division (a) above, shall make their request to the City Council to describe the proposed building. The City Council may, from time to time, allow a building not meeting the requirements of this section to be moved or erected within said fire limits, if the City Council finds that the same will not create a significant fire hazard to other buildings located in the fire limits after consulting with the City Fire Chief and after considering any and all other relevant factors in making its determination. The City Council may make such requirements as it deems necessary for safety as a condition for a building not meeting the requirements of this section being moved or erected upon and located within said fire limits.

(h) Any person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$5, nor more than \$25, for each offense. Each day that any of the provisions of this section shall be violated shall constitute a separate offense.

(Ord. 1003, passed 9-11-2014)

ARTICLE 2: BUILDING CODE

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§ 4-201 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING OFFICIAL. The Enforcing Officer or other employee or official) or his or her authorized designee.

CORPORATION COUNSEL. The City Attorney of the City of Smith Center.

MUNICIPALITY. The City of Smith Center, Kansas.

§ 4-202 RESERVED.

§ 4-203 ADDITIONAL PROVISIONS.

The following sections of this article are in addition to the provisions of the standard code incorporated by reference in § 4-202.

§ 4-204 BUILDING OFFICIAL; POWERS; DUTIES.

(a) This and other articles of the city relating generally to building and structures shall be administered and enforced by the Enforcing Officer or other employee or official. The Enforcing Officer or other employee or official shall act as Chief Building Official and may assume the responsibilities of or with the consent and approval of the governing body appoint a Building Inspector and such other assistants as may be advisable for the issuance of building permits and the inspection of building work.

(b) The Enforcing Officer or other employee or official) shall prepare such application, permit, inspection and record forms as may be required for the purposes of the article. The Enforcing Officer or other employee or official may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of

applications for building permits, issuing of building permits, and inspecting of buildings and building works.

**§ 4-205 BUILDING INSPECTOR;
APPOINTMENT.**

(a) From and after the effective date of this section, the office of Building Inspector is hereby established as a duly appointed officer for the city.

(b) The person(s) holding the title Supervisor of the city's Water, Wastewater and Street Departments shall be designated as the Building Inspector(s) for the city.

(c) The Building Inspector shall be empowered to carry out those duties and responsibilities set forth in K.S.A. 12-17-50 et seq., with regard to the identification, removal, repair and demolition of all unsafe or dangerous structures within the city.

(d) The Building Inspector shall be authorized to employ, with prior approval of the governing body, engineers, appraisers, contractors and other professionals to assist the Building Inspector and to make recommendations to the Building Inspector consistent with the provisions of K.S.A. 12-1750. (Ord. 1000, passed 4-24-2014)

§ 4-206 SAME; DUTIES.

The Building Inspector shall have the following duties:

(a) To enforce all regulations relating to construction, alteration, repair, removal and demolition of building and structures;

(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;

(c) To examine all buildings in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the Building Official without his or her written consent.

§ 4-207 SAME; POWERS.

The Building Inspector shall have the following powers:

(a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this article;

(b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city; and

(c) May cause any work done in violation of this article to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body.

§ 4-208 SAME; RIGHT OF ENTRY.

The Building Inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this article.

§ 4-209 CLARIFICATION; MODIFICATION.

(a) The governing body shall be the final determiner of the scope and meaning of all provisions of the Building Code which may be unclear, ambiguous or requiring interpretation.

(b) The Building Inspector shall have power to modify any of the provisions of the Building Code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the Building Inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the Inspector thereon shall be entered upon the records of the Building Inspector and a signed copy shall be furnished to the applicant.

§ 4-210 BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL.

No person, firm or corporation shall erect, construct, enlarge or improve any building or structure in the city or cause the same to be done without first obtaining a separate building permit for each such building or structure from the Building Official. Provided, however, that the addition, repair or replacement of exterior and interior finishing materials, such as shingles, siding, paneling, doors and windows, and the construction of sidewalks and patios and activity more commonly referred to as redecorating shall not be considered being regulated by this section, and permits for such activity shall not be required. The construction of fences shall be regulated by this section and permit shall be required. (Ord. 716, passed 5-12-1975; Ord. 871, passed 4-13-1995)

§ 4-211 SAME; APPLICATION INFORMATION REQUIRED.

(a) (1) A building permit shall be issued upon an application in writing to the office of City Clerk on a form or forms provided for the purpose.

(2) This application shall, among other things, disclose the following:

(A) The name of the owner of the lot or tract of ground;

(B) The location of the building or structure;

(C) The building work proposed;

(D) The outside dimensions of the building by floors and dimensions of the basement (if any);

(E) The class of occupancy;

(F) The class of construction;

(G) The kind of materials to be used for walls, floors, ceilings, roofs and foundations;

(H) The estimated cost of the work;

(I) The date work will commence;

(J) Expected date of completion;

(K) Name and address of contractor or contractors doing the work; and

(L) Such other information as may be pertinent to the issuance of the required permit.

(b) (1) An application for a building permit shall be signed by the owner or his or her duly authorized agent, or a building contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed contractor or contractors doing the work described, or a building permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed contractor, and likewise subject to the final approval of the Building Inspector for work performed.

(2) If an application for a building permit indicates that it is for commercial or residential roofing services, including construction, installation, renovation, repair, maintenance, alteration or waterproofing, the application shall include the contractor's name, the contractor's place of business within the city (and home office if not a resident), the contractor's state registration number as issued under the State Roofing Registration Act (K.S.A. 50-6,121 et seq.), and shall also be signed by the roofing contractor or contractor's authorized agent; provided, however, that this division (b)(2) shall not apply to:

(A) An actual owner of commercial or residential property who physically performs, or has employees who perform, roofing services on such owner's own dwelling or other structures located on the residential property without the assistance of a registered roofing contractor;

(B) To those persons identified in K.S.A. 50-6,129(a)(1) through (a)(8), and amendments there to; or

(C) To an "exempt general contractor", as defined in K.S.A. 50-6,122, and amendments thereto.

(3) If the application for a building permit indicates that it involves renovation, repairing or painting of a home or child-occupied facility, including day care centers and schools, built before 1978 and will disturb six square feet of painted interior surfaces or 20 square feet of painted exterior surfaces, the contractor performing the services must furnish proof of state certification as a licensed renovation firm or renovator; provided, however, that this division (b)(3) does not apply to a home owner performing work on an owner-occupied residence. In addition, this division (b)(3) does not apply to any other exception or exemption set forth in the State Department of Health and Environment Renovation, Repair and Painting Rule, as described in K.A.R. 28-72-1:54 and in 40 C.F.R. pt. 745, and amendments thereto.

(c) Upon approval of the completed application, including, if required, the verification of state roofer

registration or other state certification, and a determination that a permit should be issued, the Chief Building Official or his or her assistant shall issue a permit to the owner or contractor authorizing the building work covered by the application. If applicable, the permit shall include the roofer registration number or any other certification or license number issued by the state.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the building work authorized by such permit. ***BUILDING WORK COMMENCED*** for the purpose of this section shall mean the beginning of building work other than the preparation of plans or the staking out of the building location or the letting of a building contract.

§ 4-212 SAME; PLANS AND SPECIFICATIONS.

Whenever an application for a building permit is made, the Chief Building Official may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the Building Official may require the applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the Inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any building work for conformity with this article.

§ 4-213 SAME; FEES.

The fee for a building permit shall be \$10.

§ 4-214 SAME; POSTING.

A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The Building Inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof.

§ 4-215 CERTIFICATE OF APPROVAL.

Upon the completion of any work under a building permit, the Chief Building Official or the Building Inspector or his or her designee is authorized to issue a certificate of approval for the occupancy and use of the building or structure. The certificate shall show the number of inspections made and the orders and corrections required during the course of the work. A copy of such certificate shall be given the owner.

**§ 4-216 INSPECTIONS OF BUILDING;
LAYOUT OF BUILDING; FOUNDATIONS
AND FOOTINGS; NOTICE TO INSPECTOR.**

(a) The contractor or builder having a permit for new construction, or additions to existing buildings, shall notify the Chief Building Official or Building Inspector immediately upon the marking or laying out of the site and foundation for such work. The Official or Inspector shall inspect the layout for conformity with this article and with respect to lot lines, setbacks and location of the proposed buildings to determine conformity with the city zoning regulations. In case of doubt respecting the required location, the Chief Building Official may require an official survey of the lot lines to determine conformity, at the expense of the permit holder.

(b) Upon completion of the excavation for the building foundation and footings and the construction of the necessary forms thereof and before the foundation and footings are poured or laid, the Official or Inspector shall be notified as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building foundations and footings.

(c) The Building Inspector shall, during the course of all building, make such other inspections as may be directed by the Chief Building Official to be made during any successive stage of the construction or other work covered by a permit in order to secure compliance with laws pertaining thereto.

§ 4-217 REQUEST FOR INSPECTION.

Upon the completion of any building construction work covered by this article, it shall be the duty of the person doing such work to notify the Building Inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided.

§ 4-218 RESERVED.**§ 4-219 WORK BY PROPERTY OWNERS.**

Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the Building Inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. Personal building or construction performed by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or building contractor licensed by the city.

§ 4-220 LIABILITY.

This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein.

§ 4-221 SEVERABILITY.

If any section of the International Building Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect.

§ 4-222 TRACER WIRE ON BURIED LINES.

(a) No person or corporation shall be allowed to construct, install or lay, any water lines, sewer lines or other utility lines within the corporate limits of the city, unless said construction or installation includes the insertion of tracer wire into the ditch where the pipe or line will be laid.

(b) (1) Prior to constructing or laying said lines any contractor or landowner shall notify the City Clerk of the contractor's, or landowner's, intent to lay these lines.

(2) The contractor, or landowner, shall not cover up the ditch or trench in which said lines or pipes are laid without first having contacted the agent of the city to inspect the project, to ensure compliance with this section.

(c) The agent of the city who inspects the project shall approve said project in writing and shall deliver to the landowner, or contractor, a copy of said approval. A copy of the approval shall also be filed in the City Clerk's office by the agent.

(d) Any tracer wire inserted into the trench or ditch shall be no larger than .12 gauge and no smaller than .16 gauge. All tracer wire should be oil- and gasoline-resistant and insulated. Wires may be purchased from the city, if requested.

(e) Any person found to be in violation of this section shall, upon conviction in the Municipal Court of the city, pay a fine not to exceed \$500 for each offense, plus court costs, and shall immediately pay for the costs of having the lines excavated and properly installed.

(f) This section shall not apply to any lines currently in place at the time of enactment of this section. In the event that it becomes necessary to repair any existing lines by excavation, however, no ditch or trench shall be filled in without insertion of the tracer wire, if possible.

(Ord. 926, passed 2-27-2003)

§ 4-223 PORTABLE STRUCTURES ON PRIVATE PROPERTY.

(a) No person or corporation shall be allowed to place upon any private property within the corporate limits of the city any tractor/trailer unit or any part thereof, railroad car or grain bin or shipping box or container which is to be used for any purpose other than the purpose for which it was originally manufactured and, specifically, no person or corporation, landowner or other person shall use such items for storage within the limits of said city.

(b) Any person found to be in violation of this section shall, upon conviction in the Municipal Court of the city, pay a fine not to exceed \$500 for each offense, plus court costs, and shall immediately remove the offending structures from said property. Each day said structure remains in place shall be considered a separate offense.

(c) This section shall not apply to any commercial business which is located in any commercial area of said city, and is having special sales of merchandise from tractor/trailer units; provided that, said sales do not exceed a period of five consecutive days.

(Ord. 937, passed 3-25-2004)

§ 4-224 LIQUIFIED PETROLEUM GAS.

(a) The use of liquefied petroleum gas for heating or other utility purposes in connection with any structure or building within the city limits is hereby prohibited and declared unlawful. It is further unlawful to place within the city limits, any tanks or other containers containing LPG if said containers are of a capacity greater than 40 pounds.

(b) Any existing "nurse tanks" used for filling other containers with LPG are exempt from the

prohibitions of this section, if the owners register such nurse tanks with the Fire Department, giving the location, contents and capacity thereof, along with directions for the venting of said tanks.

(c) It is not the intent of the governing body to prohibit the use of LPG gas for outdoor cooking, nor to prohibit the use or storage of LPG in vehicles, recreational vehicles, camper trailers, campers and other such mobile units.

(d) Any violation of this section is hereby declared to be an unclassified misdemeanor and shall be punished by a fine of up to \$100 per violation to be determined by the Municipal Judge, and each day a violation continues shall be treated as a separate violation. The defendant shall also be ordered to pay the Court costs and the costs of remedying the violation, such as the removal of the LPG container. In addition to such fine, the Judge may sentence the defendant to serve to five days in the county jail.
(Ord. 959, passed 11-9-2006)

ARTICLE 3: RESERVED

ARTICLE 4: RESERVED

ARTICLE 5: MOVING BUILDINGS

Section

- 4-501 Permit required; fee
- 4-502 Application
- 4-503 Unlawful moving
- 4-504 Penalty

§ 4-501 PERMIT REQUIRED; FEE.

(a) No person, firm or corporation shall move any building, house or other structure in, on or over a street or alley within the city, without first obtaining a written permit for such purpose in accordance with the provisions hereof.

(b) (1) A fee of not more than \$10 and not less than \$2 shall be paid before any permit shall be issued for the moving of any dwelling, building or other structure under this article. Such payment to be made to the City Clerk at the time of the issuance of said permit.

(2) The governing body shall fix the amount of such fee at the time the permit is granted. (Ord. 537, passed 10-20-1948; Ord. 539, passed 12-13-1948)

§ 4-502 APPLICATION.

(a) Before any person, firm or corporation shall move any building, house or other structure in, on or over any street or alley within the city, he or she shall file a written application for a permit with the Clerk of said city. Such application shall set forth the date said structure is to be moved, the type of such structure, the approximate size of such structure, the location to which it is to be moved, the route or streets over which the same will be moved and the type of moving equipment to be used in such moving.

(b) Said written application shall be presented to the governing body by the City Clerk at the next meeting following the filing of said application, and said governing body may grant or refuse said application as it may deem proper, without stating its reasons for the granting or refusal of the same. If the governing body grants such application the applicant shall deposit with the City Treasurer a sum of not less than \$100, or such larger sum as the governing body shall require, as a bond, the conditions of which shall be that the person, firm or corporation moving said structure will compensate the city, or any person or persons who are injured in person or property by reason of the moving of said building, house or structure.

(c) Upon the filing of such bond, the Mayor shall issue a written permit to the applicant, signed by the Mayor, authorizing the moving of the building described in said application.

(d) No permit shall be issued for the moving of any building, house or other structure unless the equipment to be used in the moving of the same is fully and entirely equipped with pneumatic tires, and no structure shall be moved upon any street or alley within the city, by any tractor or other implement not equipped with pneumatic tires. (Ord. 537, passed 10-20-1948)

§ 4-503 UNLAWFUL MOVING.

It shall be unlawful for any person, firm or corporation to move any building, house or other structure in, on or over any street or alley within the city, while such street is being macadamized, curbed, guttered or paved, or in, on or over any street on

which the macadamized or paved surface is fresh, green or of insufficient hardness to sustain heavy loads.

(Ord. 537, passed 10-20-1948)

§ 4-504 PENALTY.

Any person, firm or corporation violating any of the terms of this article shall, upon conviction, be punished by a fine of not more than \$200 and costs.

(Ord. 537, passed 10-20-1948)

ARTICLE 6: DANGEROUS AND UNFIT STRUCTURES

Section

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| 4-601 | Purpose |
| 4-602 | Definitions |
| 4-603 | Enforcing officer; duties |
| 4-604 | Procedure; petition |
| 4-605 | Same; notice |
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ENFORCING OFFICER. The Enforcing Officer or other employee or official or his or her authorized representative.

STRUCTURE. Includes any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
(K.S.A. 12-1750)

§ 4-603 ENFORCING OFFICER; DUTIES.

The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:

(a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;

(b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;

(c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body; and

(d) Receive petitions as provided in this article.

§ 4-604 PROCEDURE; PETITION.

Whenever a petition is filed with the enforcing officer by at least five residents charging that any

§ 4-601 PURPOSE.

The governing body has found that there exists within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article.
(K.S.A. 12-1751)

§ 4-602 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body.

§ 4-605 SAME; NOTICE.

The governing body, upon receiving a report as provided in § 4-604, shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

(K.S.A. 12-1752)

§ 4-606 SAME; PUBLICATION.

(a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only".

(K.S.A. 12-1752)

§ 4-607 SAME; HEARING, ORDER.

If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be

commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed.

§ 4-608 DUTY OF OWNER.

Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe, or to remove the same.

§ 4-609 SAME; FAILURE TO COMPLY.

(a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved or to be vacated and closed.

(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer may cause the structure to be removed and demolished.

§ 4-610 SAME; MAKE SITE SAFE.

Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the enforcing officer may proceed to make the site safe.

§ 4-611 ASSESSMENT OF COSTS.

(a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer, including making the site safe, shall be reported to the City Clerk.

(b) The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c) If the costs remain unpaid after 30 days following receipt of notice, the City Clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to recover the above stated costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the County Clerk and who shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(e) If there is no salvage material, or if the monies received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the costs of the work and the costs of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the General Fund or by the issuance of no-fund warrants. (K.S.A. 12-1755)

§ 4-612 IMMEDIATE HAZARDS.

(a) When, in the opinion of the governing body, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in § 4-611. (K.S.A. 12-1756)

(b) (1) It shall be the duty of the owner of any vacant building within the city to cover any broken window or broken door, or broken windows or doors, or to replace the same. If such broken windows or doors are not replaced, then such broken windows or doors shall be securely covered with materials made of either wood or metal. Such covering to be of such construction that it will keep humans or animals from readily entering such vacant structure.

(2) If any such broken window or broken door shall not have been replaced or properly covered within 15 days after such door or window has been or becomes broken, or within 15 days after the publication of this division (b) for those windows or doors which are now broken, then the governing body of the city shall cause such broken window or windows or broken door or broken doors to be properly covered, and the expense for the labor and materials shall be paid by the owner of the real estate on which such building is located.

(3) If the governing body of the city has caused such window or windows or door or doors to be covered, then the City Clerk shall immediately cause to be mailed to the last known address of the owner of such real estate, on which such vacant building is located, a bill covering the costs of such material and labor, and of such bill, and also directing that if such bill is not paid within such 30 days, that the costs will be assessed, as taxes, against the real estate involved, giving the description thereof. If such

bill is not paid within such 30 days, then it shall become the duty of the City Clerk to certify to the County Clerk such bill, directing such County Clerk to add the amount of the bill to the ad valorem taxes, giving the legal description of the real estate on which the taxes are to be added and that, when the taxes are thus collected, they shall be distributed as are any other ad valorem taxes to the city.

(Ord. 712, passed 3-22-1974)

§ 4-613 APPEALS FROM ORDER.

Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the District Court of the county in which the structure is located for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case.

§ 4-614 SCOPE OF ARTICLE.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750 to 12-1756.