

ORDINANCE NUMBER 13-10693

AN ORDINANCE AMENDING THE SALINA CODE BY ADDING CHAPTER 31 PERTAINING TO PROPERTY MAINTENANCE, AMENDING SECTIONS 34-22, 39-75, AND 39-76 BY UPDATING CROSS REFERENCES TO THE PROPERTY MAINTENANCE CODE, AND REPEALING EXISTING ARTICLES IV, V, AND VII OF CHAPTER 8, CHAPTER 18, ARTICLE I OF CHAPTER 24, SECTIONS 34-22, 34-25, 34-27, 34-28, AND 34-30 OF CHAPTER 34, SECTION 35-137 OF CHAPTER 35, AND SECTIONS 39-75 AND 39-76 OF CHAPTER 39.

BE IT ORDAINED by the Governing Body of the City of Salina, Kansas:

Section 1. Amendment. That Chapter 31 of the Salina Code is hereby amended and reads as follows:

ARTICLE I. DEFINITIONS

**Sec. 31-1. Scope.**

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings shown herein.

**Sec. 31-2. Interchangeability.**

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**Sec. 31-3. Terms defined in other codes.**

Where terms are not defined in this chapter and are defined in the Salina Code, such terms shall have the meanings ascribed to them as stated in the Salina Code.

**Sec. 31-4. Terms not defined.**

Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings such as the context implies.

**Sec. 31-5. Parts.**

Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

**Sec. 31.6. Definitions.**

Whenever used in this chapter, the following terms shall be defined as follows:

- (1) **AGENT.** Any person or entity listed in the Saline County, Kansas, Appraiser's Office or Treasurer's Office for the purpose of paying taxes; a registered agent with the Kansas Secretary of State's Office for corporate or partnership ownership; an agent or manager directed by the property owner, estate, or court order to represent the interests of the property or to otherwise control activities on the property, or a corporate officer.
- (2) **ANCHORED.** Secured in a manner that provides positive connection.
- (3) **APPROVED.** Approved by the code official.
- (4) **BASEMENT.** That portion of a building which is partly or completely below grade.
- (5) **BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.
- (6) **BEDROOM.** Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.
- (7) **CODE OFFICIAL.** The official who is charged with the administration and enforcement of this chapter, or any duly authorized representative.
- (8) **CONDEMN.** To adjudge unfit for occupancy or use.
- (9) **DETACHED.** When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.
- (10) **DETERIORATION.** To weaken, disintegrate, corrode, rust or decay and lose effectiveness.
- (11) **DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- (12) **EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.
- (13) **EQUIPMENT SUPPORT.** Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.
- (14) **EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.
- (15) **GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (16) **GOOD WORKING ORDER.** Maintained in such a manner that said element is capable of safely and reliably performing the intended function without need for further intervention, maintenance or repair.
- (17) **GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.
- (18) **HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.
- (19) **HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.
- (20) **IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.
- (21) **INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.
- (22) **INOPERABLE VEHICLE.** A vehicle, trailer or rolling equipment which cannot be readily used for its intended purpose for reasons including but not limited to being abandoned, a motorized vehicle incapable of moving under its own power without assistance, maintenance or repair, or a trailer or rolling equipment intended to be towed or transported that is unable to be towed or loaded without maintenance or repair.
- (23) **LABELED.** Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.
- (24) **LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.
- (25) **LIMIT STATE.** Condition in which a structure or component becomes unfit for service and is judged either to be no longer useful for its intended function (serviceability limit state) or to have reached its ultimate load-carrying capacity (strength limit state).
- (26) **NEGLECT.** The lack of proper maintenance for a building, structure or premises.
- (27) **NOXIOUS WEEDS.** Plants or vegetation identified by the State of Kansas as noxious weeds such as but not limited to kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), Johnson grass (*Sorghum halepense*) and sericea lespedeza (*Lespedeza cuneata*).

- (28) **OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.
- (29) **OCCUPANT, TENANT.** The words "tenant" and "occupant" applied to a building or land, mean any person who occupies the whole or a part of such building or land, whether alone or with others.
- (30) **OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.
- (31) **OPERATOR.** Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.
- (32) **OWNER.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- (33) **PERENNIAL VIOLATOR.** Any person who shows a pattern of failing to comply with this chapter which may be shown by three or more notices of abatement, notices of costs, or previous violations of this chapter within the preceding 12 months.
- (34) **PERSON.** An individual, corporation, partnership or any other group acting as a unit.
- (35) **PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.
- (36) **PREMISES.** A lot, plot or parcel of land, easement or public way, including any structures thereon.
- (37) **PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.
- (38) **ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.
- (39) **ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.
- (40) **RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.
- (41) **SALINA CODE.** All recognized standard codes and local amendments and local regulations adopted by the City of Salina in the Salina Code of Ordinances.
- (42) **SANITARY CONDITION.** Free from and not conducive to the accumulation of elements that endanger health such as but not limited to dirt, germs and filth.
- (43) **SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- (44) **STRUCTURE.** That which is built or constructed or a portion thereof.
- (45) **TENANT, OCCUPANT.** The words "tenant" and "occupant" applied to a building or land, mean any person who occupies the whole or a part of such building or land, whether alone or with others.
- (46) **TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.
- (47) **ULTIMATE DEFORMATION.** The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.
- (48) **VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

- (49) **WEEDS.** All grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens or vegetation required to stabilize soil on steep slopes in excess of 2:1 which cannot be mowed.
- (50) **WORKMANLIKE.** The quality of work that would be done by a worker of average skill and intelligence; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work, sufficient to reliably perform its intended purpose and acceptable in appearance.
- (51) **YARD.** An open space on the same lot with a structure.

**Secs. 31-6--31-24. Reserved.**

## **ARTICLE II. ADMINISTRATION & GENERAL APPLICATION**

### **DIVISION 1. SCOPE & APPLICATION**

#### **Sec. 31-25. Title.**

The regulations contained within Chapter 31 shall be known as the Property Maintenance Code of the City of Salina, hereinafter referred to as "this chapter."

#### **Sec. 31-26. Scope.**

The provisions of this chapter shall apply to all existing structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, occupants and tenants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

#### **Sec. 31-27. Intent.**

This chapter shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

#### **Sec. 31-28. Severability.**

If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

#### **Sec. 31-29. APPLICABILITY**

##### **Sec. 31-29.1. General.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

##### **Sec. 31-29.2. Application of other codes.**

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Salina Code. Nothing in this chapter shall be construed to cancel, modify or set aside any provision of the Salina Zoning Code.

##### **Sec. 31-29.3. Existing remedies.**

The provisions in this chapter shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

##### **Sec. 31-29.4. Historic buildings.**

The provisions of this chapter shall not be mandatory for existing buildings or structures designated as historic buildings when the building official determines that such buildings or structures are judged by the code official to be safe; continued maintenance of such condition is

consistent with the public interest of health, safety and welfare; and compliance with the provisions of this chapter would require significant alteration or elimination of a historic element in a manner that would detrimentally alter the historic nature of the element.

**Sec. 31-29.5. Referenced codes and standards.**

The codes and standards referenced in this chapter shall be those recognized standard codes and local amendments and local regulations adopted by the City of Salina and defined herein as the Salina Code. Where differences occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply. Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

**Sec. 31-29.6. Application of references.**

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this chapter.

**Sec. 31-29.7. Other laws.**

The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

**Secs. 31-30--31-49. Reserved.**

## DIVISION 2. ADMINISTRATION & ENFORCEMENT

**Sec. 31-50. Appointment.**

The Governing Body delegates to the city manager the authority to designate a code official to be charged with the administration and enforcement of this chapter.

**Sec. 31-51. Fees.**

The fees for activities and services performed by the department in carrying out its responsibilities under this chapter shall be as indicated in the Comprehensive Fee Schedule of the City of Salina.

**Sec. 31-52. DUTIES AND POWERS OF THE CODE OFFICIAL**

**Sec. 31-52.1. General.**

The code official is hereby authorized and directed to enforce the provisions of this chapter. The code official shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter.

**Sec. 31-52.2. Inspections.**

The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**Sec. 31-52.3. Right of entry.**

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this chapter, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

**Sec. 31-52.4. Identification.**

The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this chapter.

**Sec. 31-52.5. Notices and orders.**

The code official shall issue all necessary notices or orders to ensure compliance with this chapter.

**Sec. 31-52.6. Department records.**

The code official shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

**Sec. 31-53. APPROVAL****Sec. 31-53.1. Modifications.**

Whenever there are practical difficulties involved in carrying out the provisions of this chapter, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the code official shall first find that special individual reason makes the strict letter of this chapter impractical and the modification is in compliance with the intent and purpose of this chapter and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

**Sec. 31-53.2. Alternative materials, methods and equipment.**

The provisions of this chapter are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this chapter, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

**Sec. 31-53.3. Required testing.**

Whenever there is insufficient evidence of compliance with the provisions of this chapter, or evidence that a material or method does not conform to the requirements of this chapter, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**Sec. 31-53.4. Test methods.**

Test methods shall be as specified in this chapter or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

**Sec. 31-53.5. Test reports.**

Reports of tests shall be retained by the code official for the period required for retention of public records.

**Sec. 31-53.6. Used material and equipment.**

The use of used materials which meet the requirements of this chapter for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.

**Sec. 31-53.7. Approved materials and equipment.**

Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

**Sec. 31-53.8. Research reports.**

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this chapter, shall consist of valid research reports from approved sources.

**Sec. 31-54. STOP WORK ORDER****Sec. 31-54.1. Authority.**

Whenever the code official finds any work being performed in violation of this chapter, the code official is authorized to issue a stop work order.

**Sec. 31-54.2. Issuance.**

A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

**Sec. 31-54.3. Emergencies.**

Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

**Secs. 31-55--31-74. Reserved.****DIVISION 3. GENERALLY APPLICABLE SUBSTANTIVE PROVISIONS****Sec. 31-75. Maintenance.**

Equipment, systems, devices and safeguards required by this chapter or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied portion of a dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

**Sec. 31-76. Workmanship.**

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

**Sec. 31-77. Deputies.**

In accordance with the prescribed procedures of this jurisdiction, the City Manager shall have the authority to appoint a deputy(s) code official. Such employee(s) shall have powers as delegated by the code official.

**Sec. 31-78. Transfer of ownership.**

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 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 and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

**Secs. 31-79--31-99. Reserved.****ARTICLE III. GENERAL****DIVISION 1. SUBSTANTIVE REQUIREMENTS****Sec. 31-100. GENERAL****Sec. 31-100.1. Scope.**

The provisions of this article shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

**Sec. 31-100.2. Responsibility.**

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this chapter. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this article.

Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

**Sec. 31-100.3. Vacant structures and land.**

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

**Sec. 31-101. EXTERIOR PROPERTY AREAS**

**Sec. 31-101.1. Sanitation.**

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. In addition to the provisions elsewhere in this chapter, by way of illustration and not limitation, the following conditions, shall be eliminated or mitigated to comply with this section.

- 1) The exposed carcasses of animals or fowl not disposed of after death;
- 2) Accumulation of animal waste;
- 3) Brush, limbs, trees, shrubs, or plants which are dead, diseased or infested which present a harmful or dangerous condition to the public;
- 4) Exposed refrigerators, freezers, or other appliances left unsecured;
- 5) All odors and stenches which are disagreeable or obnoxious to a reasonable person, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches (including rank or infested compost heaps);
- 6) The pollution of any well or cistern, stream, river, lake, or body of water by sewage, dead animals, industrial wastes or other substances;
- 7) Smoke, gas, soot or cinders, in abnormal quantities, or any amount of noxious fumes;
- 8) Any rank sewage, rank septic system, rank vault or rank cesspool;
- 9) Any other condition which is determined to present a dangerous or harmful condition to the public.

**Sec. 31-101.2. Grading and drainage.**

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Retention areas and reservoirs approved by the City of Salina.

**Sec. 31-101.3. Exterior sidewalks and driveways.**

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas located on private exterior properties shall be kept in a proper state of repair, and maintained free from hazardous conditions. See Section 31-700 regarding sidewalks and drive approaches within rights-of-way.

**Sec. 31-101.4. Exhaust vents.**

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

**Sec. 31-101.5. Accessory structures.**

All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good working order.

**Sec. 31-101.6. Defacement of property.**

It shall be the responsibility of the owner to restore or repair any exterior surface damaged, mutilated or defaced by any marking, carving or graffiti such that said damage mutilation, defacement, carving or graffiti is no longer visible.

**Sec. 31-102. SWIMMING POOLS, SPAS AND HOT TUBS**

**Sec. 31-102.1. Swimming pools.**

Swimming pools shall be maintained in compliance with the Salina Code, in a clean and sanitary condition, and in good working order.



**Sec. 31-102.2. Enclosures.**

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching.

Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

**Sec. 31-103. EXTERIOR STRUCTURE****Sec. 31-103.1. General.**

The exterior of a structure shall be maintained in good working order, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**Sec. 31-103.2. Unsafe conditions.**

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Salina Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained such that the structure is reasonably weather resistant or water tight;
5. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings which are reasonably plumb and free from open cracks and breaks, are not anchored and maintained such that they are capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, or are anchored and maintained such that they are capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good working order with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or are not anchored or maintained such that they are capable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features which present an imminent hazard by not being anchored or maintained such that they are capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not anchored or maintained such that they are capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, or not anchored and

maintained such that they are capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not anchored or maintained such that they are capable of supporting all nominal loads and resisting all load effects.

*Exceptions:*

1. When substantiated otherwise by an approved method or by a properly licensed design professional.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

**Sec. 31-103.3. Protective treatment.**

In order to prevent becoming a blighting influence on the neighborhood and to deter weather related structural decay, exposed exterior surfaces of metal or wood, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be protected from the elements and against decay or rust by periodic application of weather coating materials such as paint or similar surface treatment. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Accumulations of Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained reasonably weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**Sec. 31-103.4. Premises identification.**

Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters.

**Sec. 31-103.5. Structural members.**

All structural members shall be capable of safely supporting the imposed dead and live loads.

**Sec. 31-103.6. Foundation walls.**

All foundation walls shall be maintained reasonably plumb and reasonably free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**Sec. 31-103.7. Exterior walls.**

All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**Sec. 31-103.8. Roofs and drainage.**

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good working order and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**Sec. 31-103.9. Decorative features.**

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good working order with proper anchorage and in a safe condition.

**Sec. 31-103.10. Overhang extensions.**

All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good working order and be properly anchored so as to be kept in a sound condition.

**Sec. 31-103.11. Stairways, decks, porches and balconies.**

Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good working order, with proper anchorage and capable of supporting the imposed loads.

**Sec. 31-103.12. Chimneys and towers.**

All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good working order except as expressly permitted in Section 31-121.1. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

**Sec. 31-103.13. Handrails and guards.**

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good working order.

**Sec. 31-103.14. Window, skylight and door frames.**

Every window, skylight, door and frame shall be kept in sound condition, good working order and weather tight.

**Sec. 31-103.15. Glazing.**

All glazing materials shall be maintained free from cracks and holes.

**Sec. 31-103.16. Openable windows.**

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**Sec. 31-103.17. Insect screens.**

Every window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working order. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

**Sec. 31-103.18. Doors.**

All exterior doors, door assemblies and hardware shall be maintained in good working order. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 31-127.3.

**Sec. 31-103.19. Basement hatchways.**

Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**Sec. 31-103.20. Building security.**

Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

**Sec. 31-104. INTERIOR STRUCTURE**

**Sec. 31-104.1. General.**

The interior of a structure and equipment therein shall be maintained in good working order, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**Sec. 31-104.2. Unsafe conditions.**

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Salina Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings which are reasonably plumb and free from open cracks and breaks or are not anchored and maintained such that they are capable of supporting all nominal loads and resisting all load effects.

*Exceptions:*

1. When substantiated otherwise by an approved method or by a properly licensed design professional.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

**Sec. 31-104.3. Structural members.**

All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**Sec. 31-104.4. Interior surfaces.**

Interior surfaces, including windows and doors, shall be maintained in reasonably clean and sanitary condition. Accumulations of peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**Sec. 31-104.5. Stairs and walking surfaces.**

Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in good working order.

**Sec. 31-104.6. Handrails and guards.**

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good working order.

**Sec. 31-104.7. Interior doors.**

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**Sec. 31-105. COMPONENT SERVICEABILITY**

**Sec. 31-105.1. General.**

The components of a structure and equipment therein shall be maintained in good working order and structurally sound condition.

**Sec. 31-105.2. Unsafe conditions.**

Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the Salina Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
  - 1.1. Collapse of footing or foundation system;
  - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
  - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
  - 1.4. Inadequate soil as determined by a geotechnical investigation;
  - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
  - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Structural Concrete that has been subjected to any of the following conditions:
  - 2.1. Deterioration;
  - 2.2. Ultimate deformation;
  - 2.3. Fractures;

- 2.4. Fissures;
  - 2.5. Spalling;
  - 2.6. Exposed reinforcement; or
  - 2.7. Detached, dislodged or failing connections.
3. Structural Aluminum that has been subjected to any of the following conditions:
- 3.1. Deterioration;
  - 3.2. Corrosion;
  - 3.3. Elastic deformation;
  - 3.4. Ultimate deformation;
  - 3.5. Stress or strain cracks;
  - 3.6. Joint fatigue; or
  - 3.7. Detached, dislodged or failing connections.
4. Structural Masonry that has been subjected to any of the following conditions:
- 4.1. Deterioration;
  - 4.2. Ultimate deformation;
  - 4.3. Fractures in masonry or mortar joints;
  - 4.4. Fissures in masonry or mortar joints;
  - 4.5. Spalling;
  - 4.6. Exposed reinforcement; or
  - 4.7. Detached, dislodged or failing connections.
5. Structural Steel that has been subjected to any of the following conditions:
- 5.1. Deterioration;
  - 5.2. Elastic deformation;
  - 5.3. Ultimate deformation;
  - 5.4. Metal fatigue; or
  - 5.5. Detached, dislodged or failing connections.
6. Structural Wood that has been subjected to any of the following conditions:
- 6.1. Ultimate deformation;
  - 6.2. Deterioration;
  - 6.3. Damage from insects, rodents and other vermin;
  - 6.4. Fire damage beyond charring;
  - 6.5. Significant splits and checks;
  - 6.6. Horizontal shear cracks;
  - 6.7. Vertical shear cracks;
  - 6.8. Inadequate support;
  - 6.9. Detached, dislodged or failing connections; or
  - 6.10. Excessive cutting and notching.

*Exceptions:*

- 1. When substantiated otherwise by an approved method or by an appropriately licensed design professional.
- 2. Demolition of unsafe conditions shall be permitted when approved by the code official.

## **Sec. 31-106. HANDRAILS AND GUARDRAILS**

### **Sec. 31-106.1. General.**

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

*Exception:* Guards shall not be required where exempted by the Salina Code.

## **Sec. 31-107. RUBBISH AND GARBAGE**

### **Sec. 31-107.1. Accumulation of rubbish or garbage.**

All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**Sec. 31-107.2. Disposal of rubbish.**

Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**Sec. 31-107.3. Refrigerators.**

Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

**Sec. 31-107.4. Disposal of garbage.**

Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

**Sec. 31-108. PEST ELIMINATION****Sec. 31-108.1. Rodent harborage.**

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**Sec. 31-108.2. Owner.**

The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

**Sec. 31-108.3. Occupant.**

The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

**Sec. 31-109. LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS, GENERALLY, GENERALLY.****Sec. 31-109.1. Scope.**

The provisions of Section 31-110, Section 31-111 & Section 31-112 shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

**Sec. 31-109.2. Responsibility.**

The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with Sections 31-110, Section 31-111 & Section 31-112.

**Sec. 31-109.3. Alternative devices.**

In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Salina Code shall be permitted.

**Sec. 31-110. LIGHT****Sec. 31-110.1. Common halls and stairways.**

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least 1 foot candle of light at the walking surface. In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

**Sec. 31-110.2. All Other spaces.**

All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

**Sec. 31-111. VENTILATION**

**Sec. 31-111.1. Bathrooms and toilet rooms.**

Every bathroom and toilet room shall comply with the Salina Code requirements for residential bathrooms, except that a window shall not be required in such spaces equipped with a Salina Code compliant mechanical ventilation system.

**Sec. 31-111.2. Process ventilation.**

Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**Sec. 31-112. OCCUPANCY LIMITATIONS****Sec. 31-112.1. Privacy.**

Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

**Sec. 31-112.2. Access from bedrooms.**

Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. Exception: Units that contain fewer than two bedrooms.

**Sec. 31-112.3. Prohibited occupancy.**

Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

**Sec. 31-112.4. Other requirements.**

Bedrooms shall comply with the applicable provisions of this chapter including, but not limited to, the light, ventilation, requirements of Section 31-109; the plumbing facilities requirements of Section 31-113; the water-heating facilities requirements of Section 31-117.4; the heating facilities requirements of Section 31-121; the electrical receptacle requirements of Section 31-123; the smoke detector requirements of Section 31-129 and the emergency escape requirements of Section 31-127.

**Sec. 31-112.5. Efficiency unit.**

Nothing in this section shall prohibit an efficiency living unit which meets the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. Light and ventilation conforming to this chapter shall be provided.
5. The maximum number of occupants shall be three.

**Sec. 31-113. PLUMBING FACILITIES AND FIXTURE REQUIREMENTS****Sec. 31-113.1. Scope.**

The provisions of Section 31-113, Section 31-114, Section 31-115, Section 31-116, Section 31-117 and Section 31-118 shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

**Sec. 31-113.2. Responsibility.**

The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of Section 31-114, Section 31-115, Section 31-116, Section 31-117 and Section 31-118.

## **Sec. 31-114. REQUIRED FACILITIES**

### **Sec. 31-114.1. Dwelling units.**

Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

### **Sec. 31-114.2. Rooming houses.**

At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

### **Sec. 31-114.3. Hotels.**

Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

### **Sec. 31-114.4. Employees' facilities.**

A minimum of one water closet and one lavatory shall be available to employees.

#### **Sec. 31-114.4.1. Location of employee toilet facilities.**

The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

### **Sec. 31-114.5. Public toilet facilities.**

Required public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the Salina Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

## **Sec. 31-115. TOILET ROOMS**

### **Sec. 31-115.1. Privacy.**

Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

### **Sec. 31-115.2. Location.**

Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

### **Sec. 31-115.3. Floor surface.**

In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

## **Sec. 31-116. PLUMBING SYSTEMS AND FIXTURES**

### **Sec. 31-116.1. General.**

Required plumbing fixtures shall be properly installed and maintained in a safe and sanitary condition and shall be in good working order. All functioning plumbing fixtures shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed.

### **Sec. 31-116.2. Plumbing system hazards.**

Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.



**Sec. 31-117. WATER SYSTEM****Sec. 31-117.1. General.**

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Salina Code.

**Sec. 31-117.2. Contamination.**

The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

**Sec. 31-117.3. Supply.**

The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**Sec. 31-117.4. Water heating facilities.**

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

**Sec. 31-118. SANITARY DRAINAGE SYSTEM****Sec. 31-118.1. General.**

All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**Sec. 31-118.2. Private wastewater disposal system.**

Where a public sanitary sewer is not available under the provisions of section 41-114, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

**Sec. 31-118.3. Maintenance.**

Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

**Sec. 31-118.4. Grease interceptors.**

Where it has been determined that a grease interceptor is not being maintained and serviced as intended by this chapter, the manufacturer's instructions or applicable local requirements, an approved interceptor monitoring system shall be provided or a maintenance program shall be established with documentation submitted to the code official or their designee.

**Sec. 31-119. STORM DRAINAGE****Sec. 31-119.1. General.**

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

**Sec. 31-120. MECHANICAL AND ELECTRICAL REQUIREMENTS****Sec. 31-120.1. Scope.**

The provisions of Section 31-121 and Section 31-122 shall govern the minimum mechanical and electrical facilities and equipment to be provided.

**Sec. 31-120.2. Responsibility.**

The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which, in the opinion of the Code Official constitutes a safety hazard due to failure to comply with the requirements of Section 31-121 and Section 31-122.

**Sec. 31-121. MECHANICAL EQUIPMENT****Sec. 31-121.1. Mechanical appliances.**

All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function. Exception: mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances secured and permanently removed from service such that they are incapable of producing combustion gases.

**Sec. 31-121.2. Removal of combustion products.**

All fuel-burning equipment and appliances shall be connected to a Salina Code compliant chimney or vent. Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

**Sec. 31-121.3. Clearances.**

All required clearances to combustible materials shall be maintained.

**Sec. 31-121.4. Safety controls.**

All safety controls for fuel-burning equipment shall be maintained in effective operation.

**Sec. 31-121.5. Combustion air.**

A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

**Sec. 31-121.6. Energy conservation devices.**

Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

**Sec. 31-122. ELECTRICAL FACILITIES****Sec. 31-122.1. Facilities required.**

Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 31-123.

**Sec. 31-122.2. Service.**

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

**Sec. 31-122.3. Electrical system hazards.**

Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**Sec. 31-122.4. Abatement of electrical hazards associated with water exposure.**

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

**Sec. 31-122.5. Electrical equipment.**

Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment otherwise subject to the Salina Code that have been exposed to water shall be replaced in accordance with the provisions of the Salina Code.

*Exception:* Equipment shall be allowed to be repaired where a written inspection report from the equipment manufacturer, approved manufacturer's representative or licensed electrician indicates that the equipment has not sustained damage that requires replacement.

**Sec. 31-122.6. Abatement of electrical hazards associated with fire exposure.**

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

**Sec. 31-122.7. Electrical equipment.**

Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits that have been exposed to fire, shall be replaced in accordance with the provisions of the International Building Code.

*Exception:* Electrical switches, receptacles and fixtures shall be allowed to be repaired where a written inspection report from the equipment manufacturer, approved manufacturer's representative or licensed electrician indicates that the equipment has not sustained damage that requires replacement.

**Sec. 31-123. ELECTRICAL EQUIPMENT**

**Sec. 31-123.1. Installation.**

All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

**Sec. 31-123.2. Receptacles.**

Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

**Sec. 31-123.3. Luminaires.**

Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

**Sec. 31-124. ELEVATORS, ESCALATORS AND DUMBWAITERS**

**Sec. 31-124.1. General.**

Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1.

**Sec. 31-124.2. Elevators.**

In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

*Exception:* Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

**Sec. 31-125. DUCT SYSTEMS**

**Sec. 31-125.1. General.**

Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

**Sec. 31-126. FIRE SAFETY REQUIREMENTS**

**Sec. 31-126.1. GENERAL**

**Sec. 31-126.2. Scope.**

The provisions of Section 31-127, Section 31-128 and Section 31-129 shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

**Sec. 31-126.3. Responsibility.**

The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of Section 31-127, Section 31-128 and Section 31-129.

**Sec. 31-127. MEANS OF EGRESS****Sec. 31-127.1. General.**

A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code as locally adopted and amended.

**Sec. 31-127.2. Aisles.**

The required width of aisles in accordance with the International Fire Code as locally adopted and amended shall be unobstructed.

**Sec. 31-127.3. Locked doors.**

All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code as locally adopted and amended.

**Sec. 31-127.4. Emergency escape openings.**

Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following:

1. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools.
2. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

**Sec. 31-128. FIRE-RESISTANCE RATINGS****Sec. 31-128.1. Fire-resistance-rated assemblies.**

The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

**Sec. 31-128.2. Opening protectives.**

Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

**Sec. 31-129. FIRE PROTECTION SYSTEMS****Sec. 31-129.1. General.**

All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code as locally adopted and amended.

**Sec. 31-129.2. Automatic sprinkler systems.**

Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

**Sec. 31-129.3. Smoke alarms.**

Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the

upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code as locally adopted and amended.

#### **Sec. 31-129.4. Power source.**

In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

*Exception:* Smoke alarms are permitted to be solely battery operated in buildings where no construction which requires a building permit is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

#### **Sec. 31-129.5. Interconnection.**

Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

#### *Exceptions:*

1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction which require a building permit or for which the cost of installing required interconnection would exceed 15% of said alterations, repairs or construction.
2. Smoke alarms in existing areas are not required to be interconnected where wireless interconnection is not practically feasible and alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

### **Sec. 31-130. BOARDING STANDARD**

#### **Sec. 31-130.1. General.**

All unsecured windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and boarding and related installation or repairs shall be painted to correspond to the color of the existing structure if the boarding, related installation or repairs remains in place for greater than sixty (60) days.

#### **Sec. 31-130.2. MATERIALS**

##### **Sec. 31-130.2.1. Boarding sheet material.**

Boarding sheet material shall be minimum 7/16-inch (11.1 mm) thick wood structural panels complying with the International Building Code as locally adopted and amended.

##### **Sec. 31-130.2.2. Boarding framing material.**

Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the International Building Code, as locally adopted and amended.

##### **Sec. 31-130.2.3. Boarding fasteners.**

Boarding fasteners shall be construction screws or carriage bolts of such a length and strength as required to penetrate the assembly and as required to adequately secure the boarding materials

### **Sec. 31-130.3. INSTALLATION**

#### **Sec. 31-130.3.1. Boarding installation.**

The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

**Sec. 31-130.3.2. Boarding sheet material.**

The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

**Sec. 31-130.3.3. Windows.**

The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

**Sec. 31-130.3.4. Door walls.**

The door opening shall be framed with minimum nominal 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at not more than 24 inches (610 mm) on center. Blocking shall also be secured at not more than 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

**Sec. 31-130.3.5. Doors.**

Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an approved manner.

**Secs. 31-131--31-199. Reserved.**

## DIVISION 2. ENFORCEMENT PROCEDURES

**Sec. 31-200. Unlawful acts.**

It shall be unlawful for a person to be in conflict with or to cause, permit, maintain or allow the creation or maintenance of a violation of the provisions of this chapter.

**Sec. 31-201. Notice of violation.**

Whenever the code official determines there has been a violation of this chapter or has grounds to believe that a violation has occurred, a written notice of violation and order of abatement ("notice and order") shall be given to the person responsible for the violation as specified in this chapter.

**Sec. 31-202. Order of abatement.**

The notice and order abatement shall provide information sufficient to reasonably allow the recipient to determine the nature of the actions required to self-abate the violation and specify a reasonable time period for completion of the self-abatement. In the case of a violation of the nature of a nuisance, a reasonable time to abate the violation shall be presumed not to exceed 10 days in accordance with K.S.A. 12-1617c(b), subject to extension upon the authority of the code official following a demonstration of due diligence in the self-abatement of the violation.

**Sec. 31-203. Request for hearing.**

The recipient of the notice and order may request a hearing before the building advisory board appeal panel established pursuant to article X by completing and filing a written request for hearing form in the office of the city clerk prior to the close of business on the date of the deadline for self-abatement of the violation as stated in the notice and order. The decision of the building advisory board appeal panel shall be the final order of the City.

**Sec. 31-204. Form.**

The notice and order shall:

1. Include a description of the subject real estate sufficient for identification;
2. Include a statement of the nature of the violation and including relevant ordinances, with sufficient information that would reasonably allow the recipient to determine the nature of the violation to allow for self-abatement.

3. Include an order of abatement allowing a reasonable time to take the actions required to self-abate the violation;
4. Inform the recipient of the notice and order of the right to a hearing if the recipient completes and files a written request for a hearing form in the office of the city clerk prior to the close of business on the date of the deadline for self-abatement of the violation;
5. Inform the recipient that failure to comply with the notice and order may result in the City abating the violation and recovering any costs not paid by the recipient within 30 days of a notice of costs by (a) assessing of any costs against the subject real estate or (b) filing suit seeking a personal judgment against the recipient; and
6. Inform the recipient that the violation is subject to prosecution.

**Sec. 31-205. Service of notice and order.**

The notice and order shall be served either by certified mail, return receipt requested, or by personal service; provided, however, if the subject real estate is unoccupied and the owner is a non-resident, then by mailing the order by certified mail, return receipt requested to the last known address of the owner. If a person to whom a notice and order is directed for service has failed to accept delivery or otherwise failed to effectuate receipt of a notice and order pursuant to this section during the preceding 24-month period, the City may provide notice of the issuance of any further notice and order by such other methods as door hangars, conspicuously posting notice of such order on the subject property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, the alternative means of notice provided by this section shall be given by telephone communication or first class mail. Destroying or tampering with any means of posting notice of such order on the subject property shall be a separate violation.

**Sec. 31-206. Abatement of nuisance by City; assessment and collection of costs.**

- (a). If the recipient of the notice and order fails to comply with the order within the period of time designated in the order, then the City may go onto the property to abate the violation in a reasonable manner. The City shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to abate the violation(s). The City may use its own employees or contract for services to abate the violation.
- (b). If the City takes action to abate the violation, it shall provide a notice of costs to the person responsible for the violation. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the notice of costs shall also be posted on the property in a reasonable manner. The recipient shall have 30 days from the date of the notice of costs to make full payment. The notice of costs shall state:
  1. The description of the subject real estate sufficient for identification;
  2. The nature of the work performed to abate the violation;
  3. The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
  4. That the notice is a demand for payment within 30 days from the date of notice;
  5. That failure to pay the entire amount within 30 days shall allow the City to file a tax lien against the property or to pursue a personal judgment for the recovery of the costs, or both;
  6. That such additional remedies to recover costs shall include additional amounts including additional administrative costs, attorneys' fees when applicable, and interest;
  7. The payments shall be made by check or money order made payable to the City of Salina, Kansas, with no post-dating of the check, and sent to the address as stated within the notice with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments, unless a payment arrangement has been agreed to and approved in writing by the code official.
- (c). If the payment of costs is not made within the 30-day period, the City may levy a special assessment for such costs against the subject real estate. The City Clerk at the time of certifying other city taxes to the county clerk shall certify such costs, and the county clerk

shall extend such costs on the tax roll of the county against the subject real estate, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. Provided further, the City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the district court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interests, court costs, attorneys' fees, and administrative costs, including but not limited to, investigative cost as well as the cost of providing notice, including any postage, have been paid in full.

- (d). The abatement of a violation of this chapter by the City shall not be a defense or excuse to any person in violation of this chapter.

#### **Sec. 31-207. Penalty.**

- (a). In addition to or as an alternative to the remedy of abatement as provided under this chapter, any person in violation of this chapter may be prosecuted in municipal court and subject to:
1. a fine of not less than \$50 nor more than \$500, except in the case of a perennial violator as defined in this chapter, in which case the minimum fine shall be \$250;
  2. a sentence of not more than six (6) months in jail;
  3. such other orders as the court deems just and consistent with the purpose and intent of this chapter; or
  4. any combination thereof.
- (b). Prosecution of any offender under this chapter does not limit the city's right to pursue assessment or collection of costs as stated in this chapter, or by other laws.
- (c). Each day that any violation shall continue shall constitute a separate offense.
- (d). Any fines assessed under this Chapter shall be collected by the municipal court administration and paid over to the general fund, except for assessments of court costs.

#### **Sec. 31-208. Additional remedies.**

In addition to or as an alternative to the remedy of abatement or the penalties provided herein, the code official may cause to be instituted any appropriate proceeding at law or in equity to restrain, correct or abate any violation of the provisions of this chapter or of any order or direction made pursuant thereto.

#### **Sec. 31-209. Emergency abatement.**

In the event the code official determines that a violation of the provisions of this chapter exists which creates an emergency requiring immediate abatement to protect the public health, safety or welfare, then the City shall proceed, without delay, to take steps to abate the situation and without prior notice or hearing. The costs of such shall be assessed as set forth in this chapter.

**Secs. 31-210--31-299. Reserved.**

### **ARTICLE IV. STRUCTURES DAMAGED BY FIRE, EXPLOSION, OR WINDSTORM**

#### **Sec. 31-300. Authorization.**

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the covered claim payment for the loss or damage to the building or other structure under the policy is in excess of 75% of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article.

#### **Sec. 31-301. Procedure.**

- (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured and the company and final settlement exceeds 75% of the face value of the policy covering any building or other insured structure, and when all amounts due to the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company



shall execute a draft payable to the director of finance in an amount equal to the sum of 15% of the covered claim payment unless the building official of the city has issued a certificate to the insurance company that the insured has or will remove the damaged building or other structure, as well as all associated debris, or replace, rebuild, or otherwise make the premises safe and secure.

- (b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.
- (c) Upon the transfer of funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company and the insured whereupon the building official shall contact the named insured by registered mail, notifying them that the insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

**Sec. 31-302. Fund created; deposit of moneys.**

The director of finance is hereby directed to create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the director of finance as provided for by this article shall be placed in that fund and deposited in an interest-bearing account.

**Sec. 31-303. Building inspector; investigation, removal of structure.**

- (a) Upon receipt of moneys as provided for by this article, the director of finance shall immediately notify the building official of the receipt, and transmit all documentation received from the insurance company to the building official.
- (b) Within 20 days of the receipt of the moneys, the building official shall determine, after prior investigation, whether the city shall initiate proceedings under the provisions of article VI and K.S.A. 12-1750 et seq., as amended.
- (c) Prior to the expiration of the 20 days established by subsection (b) of this section, the building official shall notify the director of finance whether he or she intends to initiate proceedings under article VI and K.S.A. 12-1750 et seq., as amended.
- (d) If the building official has determined that proceedings under article VI and K.S.A. 12-1750 et seq., as amended, shall be initiated, he or she will do so immediately but no longer than 30 days after receipt of the moneys by the director of finance.
- (e) The director of finance shall pay all such moneys received, plus interest, to the insured as identified in the communication from the insurance company within 30 days after receipt of such moneys, unless the City has initiated legal proceedings under article VI and K.S.A. 12-1750 et seq., as amended.

**Sec. 31-304. Removal of structure.**

If the building official determines that it is necessary to initiate local proceedings under article VI and K.S.A. 12-1750 et seq., as amended, with regard to a building or other structure damaged by fire, explosion, or windstorm, any proceeds received by the director of finance under the authority of section 31-302 relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in repairing or removing the building or other structure. All moneys in excess of that which is ultimately necessary to comply with the provisions for the repair or removal of the building or other structure, less salvage value, if any, shall be paid to the insured. Should the expenses incurred by the city exceed the insurance proceeds paid to the director of finance under section 31-302 (a) the excess expenses incurred shall be assessed against the property and paid and collected in the manner provided by K.S.A. 12-1755, as amended.

**Sec. 31-305. Relation to insurance policies.**

This article shall not make the city a part to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

**Sec. 31-306. Insurers; liability.**

Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil or criminal liability and such action shall not be deemed in violation of K.S.A.

40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article.

**Sec. 31-307. Regulations authorized.**

The city manager is hereby authorized to promulgate any further regulations necessary to implement the provisions of this article.

**Sec. 31-308 – 31-399. Reserved.**

## **ARTICLE V. TOXIC CHEMICAL REMEDIATION**

**Sec. 31-400. Definitions.**

For the purposes of this article:

- (1) **DRUG ACTIVITY** means any processing of methamphetamine, methamphetamine components, other toxic substances, or the hazardous waste there from; or the presence of methamphetamine, methamphetamine components, manufacturing paraphernalia, other toxic substances or hazardous waste that indicate either that illegal drugs have been processed or manufactured or the intent to process or manufacture illegal drugs.
- (2) **DRUG SITE** means the property and personal effects in and adjacent to the location of drug activity.
- (3) **PERSONAL EFFECT** means any personal property, including but not limited to, furniture, cookware, dishes, clothing, fabric items, blankets, and linens, used in a dwelling.
- (4) **POROUS MATERIALS** include but are not limited to, carpet, draperies, bedding, mattresses, pillows, cork board, ceiling panels, and cardboard.
- (5) **PROPERTY** means any real or personal property, including land, buildings, manufactured homes and mobile homes, designed for human occupancy.
- (6) **PROPERTY OWNER** means the person holding title to real property, manufactured or mobile homes, or the person(s) who lawfully own(s) such property.
- (7) **QUALIFIED CONTRACTOR** means a company experienced in hazardous waste removal and remediation. At a minimum, the contractor must be certified as having completed 40 hours of Hazardous Waste Operation and Emergency Response training pursuant to 29 C.F.R. 1910.120. (Or as designated by Kansas Department of Health & Environment).

**Sec. 31-401. Purpose.**

The purpose of this ordinance is to protect occupants of real property, as well as occupants of adjoining properties and the public at large, from hazardous and contaminated living environments by requiring owners of real property to remediate contamination of property caused by methamphetamine activity, or activities involving other noxious, hazardous and toxic substances, prior to resumed occupancy pursuant to the standards and conditions described in this chapter.

**Sec. 31-402. Drug Site Designation.**

The building official will designate a property as a drug site when the Salina Police Department, the I-70 Drug Task Force, Kansas Highway Patrol, Salina Fire Department or the Kansas Department of Health & Environment determine that the property hosted drug activity:

- (a) The building official shall prepare and file with the register of deeds an affidavit noting the property was designated a drug site.
- (b) The drug site shall be declared a dangerous building, and the property owner shall not permit the property to be occupied or personal effects or porous materials to be removed, except in accordance with section 31-403, until a qualified contractor certifies that the contamination on the property is remediated.
- (c) Upon discovery by the owner that an owner's property is, or has been, the location for any type of drug activity, an owner shall immediately report such activity to the Salina Police Department.

**Sec. 31-403. Public Notice of Contamination.**

- (a) Upon designating a property a drug site, the building official shall post a public notice on the property, that toxic substances have been used in the property, which contains the following:
  - (1) Warning in capital letters and bold-faced type: "WARNING: DO NOT ENTER 'PUBLIC HEALTH NOTICE'."
  - (2) Statement of danger: "Toxic substances or hazardous waste may be present on the property."
  - (3) Prohibition of trespass: "Any person who enters without the permission of the Building Official is trespassing."
  - (4) The address of each potentially contaminated property or unit.
  - (5) This public notice shall be removed only by the building official upon completion of remediation, as required by this article. It shall be unlawful for anyone else to remove this public notice.
- (b) The building official shall notify the Salina Police Department, residents of adjacent properties, and the Kansas Department of Health and Environment of the contamination.
- (c) The building official shall notify the property owner and any tenants by certified mail or personal service that the property has been designated a drug site and shall order the property owner to assess the level of contamination and remediate the building no later than 60 days from issuance of the notice.
- (d) Limited entry will only be permitted for the purpose of removing personal property to the tenant and/or owner who acknowledge, in writing, the potential dangers associated with the contamination and agree to remediate the property removed.
- (e) Upon posting of the public health notice, all occupant(s) of the building shall immediately vacate the premise. Occupation of the building is not permitted until assessment and remediation is complete pursuant to this chapter.

**Sec. 31-404. Assessment and Remediation Standards.**

- (a) All assessment and remediation must be conducted by a qualified contractor pursuant to the standards and/or recommendations of the Kansas Department of Health and Environment and the Environmental Protection Agency and the hazardous waste procedures of the international fire code adopted by the City of Salina, such that the levels of contamination do not exceed those permitted by this section. At a minimum, such contractor shall have completed forty (40) hours of Hazardous Waste Operation and Emergency Response training pursuant to 29 C.F.R. 1910.120, or subsequent regulations thereof, and shall have received certification pursuant to this training.
- (b) The contaminants to be tested and maximum acceptable levels of contamination follow:
  - (1) pH: Surface level of 7.
  - (2) Methamphetamine: 1.5 micrograms per 100 square centimeters.
  - (3) Mercury [only if the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used]: 0.3 micrograms per cubic meter of mercury in the air.
- (c) The property owner is solely responsible for the costs associated with remediation of a drug site.
- (d) A property owner may request an extension for up to 30 days if the property owner exercised due diligence to assess and remediate the building. The request for an extension must be submitted in writing to the city clerk no later than 60 days from issuance of the notice provided in section 31-403.

**Sec. 31-405. Preliminary Assessment.**

- (a) After a property is designated a drug site, the property owner must retain a qualified contractor to assess the drug site and adjacent properties and the qualified contractor will write a report detailing the level of contamination and the areas contaminated. The owner shall obtain a copy of the contractor's 29 C.F.R. 1910.120 certification and receive written confirmation from the building official that the contractor is in good standing with the City of Salina before allowing the contractor to begin assessment. The report shall be delivered to the building official without delay.
- (b) The preliminary assessment should include:
  - (1) Property description including physical address, legal description, number and type of structures present;

- (2) Review of available law enforcement reports or summaries that provide information regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and observed areas of contamination or waste disposal;
  - (3) Identification of structural features that may indicate separate functional spaces, such as attics, false ceiling and crawl spaces, basements, closets and cabinets;
  - (4) Identification of HVAC mechanical systems, vents and plumbing, including separate HVAC systems and venting, if any;
  - (5) Identification of manufacturing methods based on the observations and law enforcement reports, if the reports are available;
  - (6) Identification of chemicals used, based on observations, law enforcement reports if available, and knowledge of manufacturing method(s);
  - (7) Identification and documentation of areas of contamination. This identification may be based on visual observation, law enforcement reports or summaries, proximity to chemical storage areas, waste disposal areas, or cooking areas;
  - (8) Identification and documentation of signs of contamination such as staining, etching, fire damage, or outdoor areas of dead vegetation;
  - (9) Identification and documentation of common ventilation systems with adjacent units or common areas;
  - (10) Identification of adjacent units and common areas where contamination may have spread or been tracked.
- (c) Documentation of the preliminary assessment should include all information about sampling locations, sample combinations used in each composite, sampling methods utilized (wiping material, solvent used, size of areas wiped in cm<sup>2</sup>, name and address of laboratory that conducted the analysis and original laboratory reports. If multiple samples are to be taken at the site, prepare a rough sketch of the area sampled. The documentation should be documented in an outline which includes the following:
- (1) Property description
  - (2) Background information
  - (3) Functional areas
  - (4) Inspection findings
  - (5) Sample documentation
  - (6) Methodology
  - (7) Locations
  - (8) Laboratory information
  - (9) Results
  - (10) Other documentation
  - (11) Determination(s)
- (d) If the level of contamination does not exceed that permitted by this article, the building official shall then remove the public notice and provide written authorization to the owner that occupancy may resume. The building official shall prepare an affidavit to be filed by the property owner with the register of deeds indicating a preliminary assessment was received indicating the level of contamination does not exceed that permitted by this article.
- (e) If the level of contamination exceeds that permitted by this article, the property owner shall remediate the toxic contamination within 60 days of the notice issued pursuant to section 31-403.

#### **Sec. 31-406. Remediation.**

The qualified contractor must clean the drug site and retest in accordance with Section 31-405 until contamination falls below the maximum acceptable levels. When the level of contamination no longer exceeds that permitted by this article, the contractor shall prepare a final report and deliver it to the Building Official. The property will remain vacated and posted pursuant to Sec. 31-403 until the property is remediated.

#### **Sec. 31-407. Final Report.**

All inspections and assessments conducted by a contractor during the removal and remediation process shall be fully documented in writing. The report shall include the dates that activities were performed and the names and signatures of the people and/or companies who performed

the activities. The final report shall include any other types of relevant documentation, including but not limited to photographs, video recordings, drawings, and charts. Such additional documentation shall likewise be signed and dated. The owner shall immediately provide a certified copy of the final report to the building official upon receipt from the contractor. The final report, at a minimum, shall include:

- (a) A case narrative, site description, and site assessment.
- (b) Physical address of property, number and type of structures on the property, and a description of adjacent and/or surrounding properties.
- (c) Documented observations, and pre-remediation sampling results that provide information regarding the manufacturing or processing method, chemicals present, manufacturing or processing areas, chemical storage areas, and observed areas of contamination or waste disposal.
- (d) Name of cleanup contractor(s) and the contractor's qualifications, experience, and copy(s) of any certification(s); and
- (e) The signature of the contractor who prepared the report.
- (f) A copy of the contractor's 29 C.F.R. 1910.120 certification.
- (g) Worker safety and health information.
- (h) Decontamination and encapsulation procedures for each area that was decontaminated.
- (i) Documentation that the structure was cleaned to acceptable levels, including, but not limited to, the location and the results of post-decontamination samples, descriptions of analytical methods used, and the location(s) of laboratory(s) used.

#### **Sec. 31-408. Post Remediation Actions.**

Upon receipt of a final report in compliance with this article confirming the level of contamination does not exceed that permitted by this article, the Building Official shall then remove the public notice and provide written authorization to the owner that occupancy may resume. The Building Official shall prepare an affidavit to be filed by the property owner with the register of deeds indicating a final report was received indicating the level of contamination does not exceed that permitted by this article.

#### **Sec. 31-409. Remediation or Condemnation Authorized by the Governing Body.**

If the property owner does not remediate the drug site or request an extension for good cause within 60 days, the City may condemn the building and either remediate the contamination or demolish the building in the same manner as a dangerous structure pursuant to Article VI.

#### **Sec. 31-410. Penalty.**

- (a) Any violation of the provisions of this article shall be a misdemeanor.
- (b) Each day a violation of this article occurs shall constitute a separate offense.
- (c) The provisions of this Chapter shall not preclude the City of Salina or any other aggrieved party from pursuing any civil remedies to recover any and all costs associated with administration or enforcement of this article.

**Secs. 31-411--31-499. Reserved.**

## **ARTICLE VI. DANGEROUS STRUCTURES, EQUIPMENT OR PREMISES**

### **DIVISION 1. SUBSTANTIVE REQUIREMENTS**

#### **Sec. 31-500. DANGEROUS STRUCTURES, EQUIPMENT OR PREMISES**

##### **Sec. 31-501. General.**

When a structure, equipment or premises is found by the code official to be dangerous, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this chapter.

**Sec. 31-502. Dangerous structures.**

A dangerous structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains dangerous equipment or is so damaged, decayed, dilapidated, structurally dangerous or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**Sec. 31-502.1. Dangerous structure or premises.**

For the purpose of this chapter any structure, or premises, that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise dangerous as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly dangerous for its use and occupancy.
7. The building, structure or premises is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building or fire code of the City of Salina, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or an imminent threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

**Sec. 31-503. Dangerous equipment.**

Dangerous equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or

within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**Sec. 31-504. Unfit Structure.**

A structure is unfit for human occupancy whenever a reasonable person would find that such structure because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, insect, vermin or rat infested, or whenever the structure lacks ventilation, sanitary or heating facilities.

**Secs. 31-505--31-599. Reserved.**

## DIVISION 2. ENFORCEMENT PROCEDURES

**Sec. 31-600. Enforcement authority and procedures.**

Pursuant to K.S.A. 12-1750 et seq., as amended, the governing body of the City shall have the authority:

1. to cause the repair or removal of, or to remove any structure located within the city which may have become unsafe or dangerous; and
2. to cause the rehabilitation of or to rehabilitate any abandoned property located within the city;

in accordance with the procedures therein set forth.

**Sec. 31-601. EMERGENCY MEASURES**

**Sec. 31-601.1. Emergency measures.**

Pursuant to K.S.A. 12-1756, as amended, the code official may take immediate action to protect the public when, in the opinion of the code official, any structure is in such condition as to constitute an immediate hazard.

**Sec. 31-601.2. Imminent danger.**

When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows:

"This Structure Is Dangerous and Its Occupancy Has Been Prohibited by the Code Official."

It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**Sec. 31-601.3. Temporary safeguards.**

Notwithstanding other provisions of this chapter, whenever, in the opinion of the code official, there is imminent danger due to a dangerous condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**Sec. 31-601.4. Closing streets.**

When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to dangerous structures, and prohibit the same from being utilized.

**Sec. 31-601.5. Emergency repairs.**

For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**Sec. 31-602. Costs of emergency repairs.**

Costs incurred in the performance of emergency work shall be advanced by the City and recovered pursuant to K.S.A. 12-1755, as amended.

**Sec. 31-603. Hearing.**

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon written request, be afforded an appeal hearing by the building advisory board appeal panel.

**Secs. 31-604--31-699. Reserved.**

## **ARTICLE VII. SIDEWALKS AND DRIVEWAY APPROACHES**

### **DIVISION 1. SUBSTANTIVE REQUIREMENTS**

**Sec. 31-700. Maintenance required; removal and reconstruction.**

Every sidewalk, driveway approach or recessed parking area located with a public right-of-way shall be maintained and kept in a safe condition by the owner of the property served thereby, and any such sidewalk, driveway approach or recessed parking area which shall not be so maintained and kept or which shall interfere with or obstruct the drainage carried by such street or the use of the street for the purpose of travel shall be repaired to conform with the specifications of this article and the rules, regulations and specifications of the city engineer or be removed.

**Sec. 31-701. City Repairs.**

The city engineer, or city clerk, after giving thirty (30) days' notice to the owner or his or her agent of the necessity therefore and failure of the property owner to perform said improvements may make all necessary repairs at any time. An account of the cost thereof shall be kept and reported to the governing body.

**Secs. 31-702--31-799. Reserved.**

### **DIVISION 2. ENFORCEMENT PROCEDURES**

**Sec. 31-800. Procedure for sidewalks, driveway approaches and recessed parking generally.**

- (1) **General Procedure.** The procedure for the construction, reconstruction and repair of sidewalks, driveway approaches and recessed parking and the recovery of any costs incurred by the City shall be as provided by Article 18 of Chapter 12 of the Kansas Statutes Annotated, and according to requirements specified by ordinance; provided, that nothing herein shall be construed as prohibiting the use of Article 6a, Chapter 12, Kansas Statutes Annotated.
- (2) **Condemnation and Reconstruction Authority.** The authority of the governing body provided for in Article 18 of Chapter 12 of the Kansas Statutes Annotated to determine when a sidewalk becomes inadequate or unsafe to travel requiring condemnation and reconstruction is hereby delegated to the city manager for administration by the city engineer. Whether a sidewalk is inadequate or unsafe to travel shall be determined by the city engineer in accordance with the standards adopted by the governing body by resolution. Such standards shall be kept on file in the offices of the city clerk and the city engineer.
- (3) **Condemnation and Reconstruction Notice.** Upon a finding by the city engineer that a sidewalk is inadequate or unsafe to travel requiring condemnation and reconstruction, the city engineer shall provide notice to the abutting owner pursuant to the notice requirements in Article 18 of Chapter 12 of the Kansas Statutes Annotated. The city engineer shall establish appropriate deadlines for the required concrete work, taking into consideration weather or any other relevant factors. If the sidewalk is not constructed by the abutting owner within the time specified, the city engineer shall cause the work to be done by contract or by City staff.



**(4) Appeals.**

- (a) Any abutting owner that receives a notice that a sidewalk, driveway approach, or recessed parking is inadequate or unsafe to travel requiring condemnation and reconstruction shall have the right to appeal such finding to the building advisory board appeal panel ("BAB appeal panel") established pursuant to article X.
- (b) An appeal to the BAB appeal panel shall be taken by filing with the city clerk a written statement setting forth the grounds for the appeal.
- (c) The decision of the BAB appeal panel on the appeal shall be final a final order of the City and binding on all parties concerned.

**Secs. 31-801--31-899. Reserved.**

## **ARTICLE VIII. WEEDS**

### **DIVISION 1. SUBSTANTIVE REQUIREMENTS**

**Sec. 31-900. Weeds.**

It shall be the duty of an owner, agent or occupant to maintain all premises and exterior property free from weeds or plant growth in excess of eight inches (8") and free from all growth of noxious or poisonous weeds.

*Exceptions:* The following areas may be exempt from the above stated maintenance requirements provided that they do not contribute to weed, rodent or pest infestation of an adjoining occupied property.

- 1. Pond, creek or stream banks;
- 2. Undisturbed areas of grassland ecosystems or forest ecosystems greater than 2,000 square feet in area and maintained less than 8" in height a minimum of 15' from maintained areas on an adjoining property under separate ownership;
- 3. Homogenous agricultural crops grown on vacant lots qualifying for agricultural classification for ad valorem property tax purposes provided that the agricultural crop is not grown:
  - a. within 15' of the property line of an adjoining property that is either occupied or under separate ownership or
  - b. within a required front, side or rear yard adjoining a right-of-way or properties that are either occupied or under separate ownership.
- 4. Areas of vegetation within public parks or park like settings owned by governmental or educational entities.

### **DIVISION 2. ENFORCEMENT PROCEDURES**

**Sec. 31-1000. Unlawful acts.**

It shall be unlawful for a person to be in conflict with or to cause, permit, maintain or allow the creation or maintenance of a violation of the provisions of this article.

**Sec. 31-1001. Notice of violation.**

Whenever the code official determines there has been a violation of this article or has grounds to believe that a violation has occurred, a one-time yearly written notice of violation and order of abatement ("notice and order") shall be given to the owner, occupant or agent of the subject premises or exterior property.

**Sec. 31-1002. Order of abatement.**

The one time yearly notice and order shall provide information sufficient to reasonably allow the recipient to determine the nature of the actions required to self-abate the violation by cutting or destroying weeds or overgrowth:

- 1. Within five days; or
- 2. In cases where the owner is unknown or is a nonresident, and there is no resident agent, within 10 days after notice has been posted by the city clerk on the official city web site.

**Sec. 31-1003. Request for hearing.**

The recipient of the notice and order may request a hearing before the building advisory board appeal panel established pursuant to article X by completing and filing a written request for hearing form in the office of the city clerk prior to the close of business on the date of the deadline for self-abatement of the violation as stated in the notice and order. The decision of the building advisory board appeal panel shall be the final order of the City.

**Sec. 31-1004. Form.** The notice and order shall:

1. Include a description of the subject premises or exterior property sufficient for identification;
2. Include a statement of the nature of the violation, including relevant ordinances, with sufficient information that would reasonably allow the recipient to determine the nature of the violation and to allow for self-abatement.
3. Include an order of abatement allowing a reasonable time to take the actions required to self-abate the violation;
4. Inform the recipient of the notice and order of the right to a hearing if the recipient prepares and files a written request for a hearing form in the office of the city clerk prior to the close of business on the date of the deadline for self-abatement of the violation;
5. Inform the recipient that failure to comply with the notice and order may result in the City abating the violation and recovering any costs not paid by the recipient within 30 days of a notice of costs by (a) assessing of any costs against the subject real estate or (b) filing suit seeking a personal judgment against the recipient;
6. Inform the recipient that the violation is subject to prosecution; and
7. Inform the recipient that no further notices and orders will be given in the same calendar year to remove weeds or plant growth.

**Sec. 31-1005. Service of notice and order.**

The notice and order shall be served either by certified mail, return receipt requested, or by personal service; provided, however, if the subject premises or exterior property is unoccupied and the owner is a non-resident, then by mailing the order by certified mail, return receipt requested to the last known address of the owner. In cases where the owner is unknown or is a nonresident, and there is no resident agent, notice shall also be posted by the city clerk on the official city web site.

**Sec. 31-1006. Abatement of nuisance by City; assessment and collection of costs.**

- (a). If the recipient of the notice and order fails to comply with the order either (1) within the period of time designated in the order or in the published notice (if applicable); (2) in the event of any subsequent violation within the same year, without further notice, then the City may go onto the property to abate the violation in a reasonable manner. The City shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to abate the violation(s). The City may use its own employees or contract for services to abate the violation.
- (b). If the City takes action to abate the violation, it shall provide a notice of costs to the person responsible for the violation. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the notice of costs shall also be posted on the property in a reasonable manner. The recipient shall have 30 days from the date of the notice of costs to make full payment. The notice of costs shall state:
  1. The description of the subject premises or exterior property sufficient for identification;
  2. The nature of the work performed to abate the violation;
  3. The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
  4. That the notice is a demand for payment within 30 days from the date of notice;
  5. That failure to pay the entire amount within 30 days shall allow the City to file a tax lien against the property or to pursue personal judgment for the recovery of the costs, or both;
  6. That such additional remedies to recover costs shall include additional amounts including additional administrative costs, attorneys' fees when applicable, and interest;

7. The payments shall be made by check or money order made payable to the City of Salina, Kansas, with no post-dating of the check, and sent to the address as stated within the notice with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments, unless a payment arrangement has been agreed to and approved in writing by the code official.

- (c). If the payment of costs is not made within the 30-day period, the City may levy a special assessment for such costs against the subject real estate. The City Clerk at the time of certifying other city taxes to the county clerk shall certify such costs, and the county clerk shall extend the such cost on the tax roll of the county against the subject real estate, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. Provided further, the City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the district court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interests, court costs, attorneys' fees, and administrative costs, including but not limited to, investigative cost as well as the cost of providing notice, including any postage, have been paid in full.
- (d). The abatement of a violation of this chapter by the City shall not be a defense or excuse to any person in violation of this article.

#### **Sec. 31-1007. Penalty.**

- (a). In addition to or as an alternative to the remedy of abatement as provided under this chapter, any person in violation of this chapter may be prosecuted in municipal court and subject to:
  - 1. a fine of not less than \$50 nor more than \$500, except in the case of a perennial violator as defined in this chapter, in which case the minimum fine shall be \$250;
  - 2. a sentence of not more than six (6) months in jail;
  - 3. such other orders as the court deems just and consistent with the purpose and intent of this chapter; or
  - 4. any combination thereof.
- (b). Prosecution of any offender under this chapter does not limit the city's right to pursue assessment or collection of costs as stated in this chapter, or by other laws.
- (c). Each day that any violation shall continue shall constitute a separate offense.
- (d). Any fines assessed under this Chapter shall be collected by the municipal court administration and paid over to the general fund, except for assessments of court costs.

#### **Sec. 31-1008. Additional remedies.**

In addition to or as an alternative to the remedy of abatement or the penalties provided herein, the code official may cause to be instituted any appropriate proceeding at law or in equity to restrain, correct or abate any violation of the provisions of this chapter or of any order or direction made pursuant thereto.

#### **Sec. 31-1009. Emergency abatement.**

In the event the code official determines that a violation of the provisions of this chapter exists which creates an emergency requiring immediate abatement to protect the public health, safety or welfare, then the City shall proceed, without delay, to take steps to abate the situation and without prior notice or hearing. The costs of such shall be assessed as set forth in this chapter.

**Secs. 31-1010--31-1099. Reserved.**

## **ARTICLE IX. INOPERABLE VEHICLES**

### **DIVISION 1. SUBSTANTIVE REQUIREMENTS**

#### **Sec. 31-1100. Inoperative or Unlicensed Vehicles.**

Except as provided for in other regulations, no inoperable or unlicensed motor vehicle shall be parked, kept or stored on any premises.

*Exceptions:*

- 1.) A vehicle of any type is permitted to either be parked or undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and lawfully utilized for such purposes;
- 2.) An immediate repair of a vehicle serving as an occupant's sole source of vehicular transportation, but such repair activity, interrupted or not, shall not extend beyond two consecutive calendar days.

**Secs. 31-1101--31-1199. Reserved.**

## DIVISION 2. ENFORCEMENT PROCEDURES

**Sec. 31-1200. Nuisance and abatement.**

Any inoperable vehicle parked, stored or deposited in a manner other than that permitted under this article is hereby declared a nuisance and may be abated from property other than public property or property open to use by the public under the same authority and procedure as set forth in division 2 of article III of this chapter, as it now exists or may be amended.

**Sec. 31-1201. Disposition of abated vehicles.** Disposition of any vehicle abated pursuant to this article shall be in compliance with the procedures for impoundment, notice and public auction provided by K.S.A. 8-1102(a)(2), as amended.

**Sec. 31-1202. Penalty.**

- (a) Any person violating the provisions of this division shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) or more than five hundred dollars (\$500.00), or imprisoned not to exceed five (5) days, or be both so fined and imprisoned, for each offense. Each day such violation continues to exist shall constitute a separate offense.
- (b) Upon a conviction for violation of this division, it shall be within the court's discretion to order that the vehicle be removed and stored at the expense of the person so convicted.

**Secs. 31-1203--31-1299. Reserved.**

## ARTICLE X. APPEALS

**Sec. 31-1300. Application for appeal.**

Any person directly affected by a decision of the code official or a notice or order issued under this chapter shall have the right to appeal to a building advisory board appeals panel ("BAB appeal panel"), by completing and filing a written application for appeal hearing form in the office of the city clerk prior to the close of business on the day of the deadline specified pursuant in the applicable provisions of this chapter or, if no deadline is specified, within 20 days after the day the decision, notice or order was served. An application for appeal shall be based upon a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means.

**Sec. 31-1301. Membership of board.**

A BAB appeal panel shall consist of a minimum of three members of the building advisory board appointed on a case-by-case basis by the chairman of the building advisory board, making reasonable effort to select members who are available to serve and who are qualified by experience and training to pass on matters pertaining to the matter being appealed. The chairman of the building advisory board may designate alternate members of a BAB appeal panel and may serve as a self-appointed member of a BAB appeal panel.

**Sec. 31-1302. Chairman.**

The chairman of the building advisory board shall designate a BAB appeal panel member to serve as the chairman of the BAB appeal panel. The chairman of the building advisory board may serve as a self-appointed chairman of a BAB appeal panel.

**Sec. 31-1303. Disqualification of member.**

A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**Sec. 31-1304. Compensation of members.**

Members of the building advisory board shall serve as volunteers and shall not be compensated for their service when serving on a BAB appeals panel.

**Sec. 31-1305. Notice of meeting.** A BAB appeals panel shall meet upon notice from the chairman and within 30 days of the filing of an appeal.

**Sec. 31-1306. Open hearing.**

Subject to the provisions of the Kansas open meetings act, all hearings before a BAB appeal panel shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

**Sec. 31-1307. Procedure.**

The building advisory board shall adopt and make available to the public procedures under which hearings by a BAB appeals panel will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**Sec. 31-1308. Postponed hearing.**

When a full BAB appeal panel consisting of three appointed or alternate members is not present to hear an appeal, the hearing shall be postponed and rescheduled as soon as reasonably possible.

**Sec. 31-1309. Stays of enforcement.**

Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal can be heard and decided by the BAB appeal panel.

**Sec. 31-1310. Limitations on authority.**

An application for appeal shall be based upon a claim that:

- (a) the true intent of the applicable code or rules legally adopted thereunder have been incorrectly interpreted;
- (b) the provisions of the applicable code do not fully apply; or
- (c) that the code official have incorrectly denied a request for a modification pursuant to section 31-53.1 or use all alternative materials, methods or equipment pursuant to section 31-53.2.

A BAB appeal panel shall have no authority to waive requirements of any codes duly adopted or amended by this chapter.

**Sec. 31-1311. Final Order.**

The decision of the BAB appeal panel shall be a final order of the City.

**Section 2.** That Sections 34-22, 39-75 and 39-76 are hereby amended as follows:

**Sec. 34-22. Disposal from unoccupied premises.**

It shall be the responsibility of the property owner or his authorized agent to cause to be collected and disposed of all refuse accumulated at or on any unoccupied premises within the corporate limits of the city not later than seven (7) days following vacation of the premises. Upon failure of the property owner or his authorized agent to dispose of such refuse within the seven (7) days following vacation of premises, the city manager shall attempt to notify the property owner or his authorized agent to cause to be collected and disposed of according to the provisions of this article all refuse accumulated at or on the premises within forty-eight (48) hours. Inability to contact the property owner or his authorized agent, or failure of the property owner or his authorized agent to dispose of the accumulated refuse as ordered, shall be cause for the city manager to order the refuse collected and disposed of in accordance with chapter 31, article III.

**Sec. 39-75. Abatement procedure.**

If the owner or agent of the real estate upon which the public nuisance exists fails to abate the nuisance within the time permitted in the preliminary notice, the city may initiate the procedures for abatement of nuisances set forth in chapter 31, article III as they now exist or may be amended.

**Sec. 39-76. Emergency abatement.**

Whenever the city forester determines that an emergency exists which requires immediate abatement of a nuisance to protect the public health, safety or welfare, an order may be issued directing the owner or agent of the real estate to take appropriate action to immediately abate the nuisance causing the emergency. If the owner or agent does not take immediate action to abate the emergency or is not immediately available, the city forester may act to abate the emergency with any costs incurred to be assessed and collected in the manner provided under chapter 31, article III.

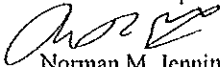
**Section 3. Repealer.** That Articles IV, V, and VII of Chapter 8, Chapter 18, Article I of Chapter 24, Sections 34-22, 34-25, 34-27, 34-28, and 34-30 of Chapter 34, Section 35-137 of Chapter 35, and Sections 39-75 and 39-76 are hereby repealed.

**Section 4. Effective.** This ordinance shall be in full force and effect 90 days from and after its adoption and publication by the following summary once in the official city newspaper.

**Ordinance No. 13-10693 Summary**

On April 15, 2013, the City of Salina, Kansas, passed Ordinance No. 13-10693. The ordinance amends the Salina Code by adding Chapter 31 pertaining to property maintenance. A complete copy of the ordinance is available at [www.salina-ks.gov](http://www.salina-ks.gov) or in the office of the city clerk, 300 W. Ash Street, free of charge. This summary is certified by the city attorney.

Introduced: April 8, 2013  
Passed: April 15, 2013

  
Norman M. Jennings, Mayor

[SEAL]

ATTEST:

  
Lieu Ann Elsey, CMC, City Clerk