

City of Westwood Hills, Kansas

Minimum Property Maintenance Code

Edition 2014

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Hills, Kansas**

CHAPTER 5. BUILDING AND CONSTRUCTION

ARTICLE 5. MINIMUM STANDARDS FOR PROPERTY - MINIMUM PROPERTY MAINTENANCE CODE

5-501. PURPOSES OF ARTICLE. The general purpose of this Article is to protect the public health, safety and the general welfare of the people of the City. These general objectives include, among others, the following specific purposes:

- a. To protect the character and stability of residential and Commercial or Retail Areas within the City by legislation which shall be applicable to all dwellings and buildings now in existence or hereafter constructed.
- b. To provide minimum standards for the maintenance of exteriors of all existing buildings, including Commercial or Retail Areas, and for the maintenance of the grounds related to such buildings in order to prevent the creation of blight.
- c. To provide minimum standards for the maintenance of the interiors of all existing buildings, including Commercial or Retail Areas.
- d. To preserve the property value of land and buildings throughout the City.
- e. To provide determinable minimum maintenance standards for dwellings and non-residential structures, and the grounds related to them, and thus to facilitate enforcement of legal rights and remedies.
- f. To provide mechanisms for the enforcement and administration of the Code to ensure that the above purposes are accomplished.

This Article shall be construed so as 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 Buildings and Structures. Existing Buildings and Structures which do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

5-502. DEFINITIONS. For the purpose of this Article, the following words and phrases shall have the meaning respectively ascribed to them by this section. When not inconsistent with the context, words used in the present tense include the past tense, and words in the singular number include the plural number. The usage of the word "shall" indicates mandatory rather than permissive requirements. Any terms not defined in this Section or Article shall have ordinarily accepted meanings as the context implies.

Architectural Detail: A fixture or appurtenance of a structure that contributes to the distinctive architectural character of the Structure.

Accessory Structure: A subordinate Structure located on the same lot as the main Structure or attached to a portion of the main Structure, which subordinate Structure is clearly incidental to, and customarily found in connection with, the main Structure or principal use of the land.

Building: Any Structure used or intended for supporting or sheltering any use or occupancy.

Building Code: The Building Code of the City of Westwood Hills as described in Section 5-101, *et seq.*

Commercial or Retail Area: Any structure, building, or property devoted, designed or utilized for any non-residential use, excluding an appropriately licensed, home-based business to which the City has granted a business occupational license.

Deterioration: The condition of a Building or part thereof, characterized by evidence of physical decay or neglect, excessive use, or lack of maintenance.

Duplexes: A Building or portion thereof designed or altered for occupancy by two (2) families living independently of each other in separate Dwelling Units.

Dwelling: Any Building or portion thereof containing one (1) or more Dwelling Units.

Dwelling Unit: A Building or portion of a Building which is primarily arranged, occupied, or intended to be occupied as living quarters for one family; with a separate, independent living quarter consisting of one or more connected rooms with permanently installed bathroom and kitchen facilities.

Enforcement Officer: The official designated herein or otherwise charged with the responsibilities of administering this Article or his/her authorized representative(s).

Exterior Appurtenances: Objects which are added to a structure for aesthetic or functional purposes. These include, but are not limited to, awnings, trellises, and television antennae.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or implementing any other recognized and legal pest elimination methods approved by the Enforcement Officers of this City.

Family: One or more Persons who are related by blood or marriage, including not more than one non-related lodger or boarder, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than two (2) Persons living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities. However, nothing herein shall preclude or prohibit any living arrangement otherwise protected by or provided for by state or federal law.

Fence: An independent Structure forming a barrier at grade between lots, between a lot and street or an alley, or between portions of a lot or lots. A barrier includes a wall or latticework screen but excludes a hedge or natural growth or a barrier less than eighteen (18) inches in height which is used to protect plant growth.

Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Gutter: A trough attached to an eave to carry off water.

Habitable Building: Any Structure or part thereof that may be used as a home or place of abode by one (1) or more Persons.

Habitable Room: Every room in any Building in which Persons sleep, eat or carry on their usual domestic or social vocations or avocations. "Habitable Room" shall not include private laundries, bathrooms, toilet rooms, water closet compartments, pantries, storerooms, foyers, closets, corridors, rooms for mechanical equipment for services in the Building, or other similar spaces not used by Persons frequently or during extended periods.

Harborage Places for Insects. Pests or Rodents: Any place where insects, pests or rodents can live, nest or seek shelter.

Interior Maintenance Standards: Standards of maintenance of the inside elements and for occupancy of rented or leased Dwelling Units only where the Owner does not reside.

Landlord: Any Person who has charge, care, or control of a Building, or part of a Building, which is leased, licensed or offered for occupancy.

Minimum Standards: The least quality permissible by this Article.

Occupant: Any Person living or sleeping in a Dwelling Unit or having actual possession of said Dwelling Unit.

Operable Area: That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Ornamental Grass: As opposed to a lawn grass, a grass that is not mown but is allowed to grow to its full potential and is used in the landscape in the same way as perennials or other ornamental plants.

Owner: Any Person who, alone, jointly or severally with others, is in actual possession of, or has charge, care or control of, any building, dwelling or dwelling unit within the City as Owner, employee or agent of the Owner, or as trustee or guardian of the estate or Person of the title holder. All such Persons shall be bound to comply with the provisions of this Article to the same extent as the Owner.

Person: A corporation, firm, partnership, limited liability company, association, organization and any other group acting as a unit as well as any individual. "Person" shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "Person" is used in any section of this Article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, the word "Person" shall include the officers, agents or members thereof who are responsible for any violation of such section.

Premises: A lot, plot or parcel of land or any part thereof, including the Buildings or Structures thereon.

Public Hall: A hall, corridor or passageway for ingress to and egress from a Dwelling or Dwelling Unit not within the exclusive control of one (1) family or Dwelling Unit.

Public Nuisance: The term "Public Nuisance" includes the following:

(1) The physical condition or use of any Premises regarded as a public nuisance at common law or by other provisions of the Westwood Hills Municipal Code; or

(2) Any physical condition, use or occupancy of any Premises or its appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, swimming pools, shafts, excavations, unsafe fences or structures, etc., or

(3) Any Premises designated as unsafe for human habitation or use; or

(4) Any Premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecured so as to endanger life, limb or property; or

(5) Any Premises which are unsanitary, which are littered with Rubbish or Garbage, which have an excessive accumulation of animal waste, or which have an uncontrolled growth of weeds or other flora; or

(6) Any Structure or Building that is in a state of dilapidation, deterioration or decay; that is open, vacant or abandoned; that has been damaged by fire to the extent so as to not provide shelter; that is in danger of collapse or failure and is dangerous to anyone on or near the Premises; or that is faultily constructed.

Rank Weeds: Include but are not limited to the following: large crabgrass, large hairy crab grass, barnyard grass (*Echinochloa crusgalli*), Pennsylvania smartweed (*Polygonum pennsylvanicum*), ladythumb, smartweed (*Polygonum persicaria*), curled dock (*Rumex crispus*), lambsquarter (*Chenopodium album*), rough pigweed, common ragweed (*Ambrosia artemisiifolia*), giant ragweed, horseweed, Kingshead (*Ambrosia trifida*), dandelion, cocklebur, clotbur (*Xanthium pennsylvanicum*), velvet leaf, blue stickseed (*Lappula echinata*), kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium avense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tormentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding), thistle (*Carduus nutans* L.), stink grass, lovegrass (*Eragrostis cilianesis*), witchgrass, tube paicgrass (*Panicum capillare*), giant fox tail (*Setaria faberii*), hp sedge, sloughgrass (*Carex lupulina*), hemp (*Cannabis sativa*), stinging nettle, and Johnson grass (*Sorghum halepense*).

Repair: To restore to a sound and acceptable state of operation or serviceability. Repairs shall be expected to last approximately as long as the replacement by new items would last.

Replace: To remove an existing item or portion of a system and to construct or install a new item of quality which is similar to or better than the existing item when new. Replacement will ordinarily take place when the item is beyond Repair.

Rubbish: Nonputrescible solid wastes consisting of both combustible and noncombustible wastes.

Smoke Detector: A device which detects visible or invisible particles of combustion and which device may be either the ionization chamber or the photoelectric type device.

Strict Liability Offense: An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

Structure: Anything constructed or erected with a fixed location on the ground or attached to something with a fixed location on the ground. Structures include, but are not limited to, buildings, walls, fences, poster panels, and similar uses. Sidewalks, pavement, and public improvements such as utility poles, street light fixtures, and street signs are excluded from the term "Structure."

Substandard: All Structures which do not conform to the Minimum Standards established by this Article or any other Westwood Hills ordinance.

Unlawful Structure: An Unlawful Structure is one found in whole or in part to be occupied by more Persons than permitted under this code or which was erected, altered, or occupied or is being maintained in violation of this Article or any other applicable laws, statutes, ordinances or regulations.

Workmanlike: Whenever the words "workmanlike state of maintenance and repair" or "workmanlike manner" are used in this Article, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

Yard: An open space at grade on the same lot(s) as a Building or Structure located between the main Building and the adjoining lot line and/or street line. The measurement of a Yard shall be the minimum horizontal distance between the lot line and the Building or Structure.

5-503. APPLICABILITY OF THIS ARTICLE. Every Building or Premises shall conform to the requirements of this Article, regardless of when such Building or Premises shall have been constructed, altered or repaired. Nothing in this Article shall be construed to require existing Buildings or Premises to comply with the requirements of the current building code, electrical code, plumbing code, or mechanical code; provided, however, that, after the effective date of the ordinance of which this Article is a part, repairing, reconditioning or maintaining of existing Buildings shall be completed as required by this Article 5.

a. Equipment, systems, devices and safeguards required by this Article or a previous ordinance under which the Building or Structure was constructed, altered or repaired shall be maintained in good working order. No Owner or Occupant shall allow or cause any service, facility, equipment or utility which is required under this Article to be removed from or shut off from or discontinued for any occupied Dwelling, except for such temporary interruptions as necessary while repairs or alterations are in progress.

b. Landlord-tenant Relations. Nothing in this ordinance or its enforcement shall be construed in any way to affect landlord-tenant relations, nor shall this Article 5 relieve the tenant of any implied contractual obligations with the Landlord.

c. Landlord of a Habitable Building. All operators of a habitable Building shall obtain

annually a rental property license pursuant to Chapter 6, Article 5 of the City of Westwood Hills Ordinances. The City requires as a precondition to the issuance of such license that the habitable building to be rented or let first be inspected inside and outside by the Enforcement Officer and that a rental property license be obtained pursuant to Section 5-506(bb) of this Chapter. If the Enforcement Officer finds the premises or the habitable Building to be in violation of this Article 5, then the Enforcement Officer will advise the City Clerk in writing, and the Clerk shall refuse issuance of the rental property license. It shall be a violation of this Article for a Landlord to rent or let any Dwelling Unit or habitable Building without the prescribed license.

5-504. INTERPRETATION.

a. Scope. This Article establishes Minimum Standards for principal buildings and accessory buildings and premises and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings except such as are in conflict with the provisions of this Article. If any provision of this Article is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or any other Article of the Code of Ordinances of the City existing on the effective date of this Article, then the provision which establishes the higher standard for the promotion and protection of the safety, health and welfare of the people shall prevail. It is not the intention of this Article to require reconstruction or replacement of existing facilities or structures in sound condition or good repair in order to meet specific requirements of any of the above-mentioned codes unless there is an existing or probable health or safety hazard to the occupants or any residents of the City.

b. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Article should be declared invalid for any reason whatsoever, such invalidity shall not affect the remaining portions of this Article, which shall remain in full force and effect.

5-505. MINIMUM STANDARDS FOR EXTERIORS OF ALL BUILDINGS AND PREMISES.

a. Applicability. It shall be unlawful for any Person to own, occupy, rent, lease, or hold out to another for occupancy, any Building for any purpose, including, but not limited to, for the purposes of carrying on a business, living, sleeping, cooking or eating, which Building is not safe, sanitary and fit for human occupancy and which Building does not comply with the particular requirements of the following paragraphs of this section.

b. Foundation, Exterior Walls. The foundation and exterior walls shall be substantially water tight and weather tight as can be determined from a ground level inspection, shall be protected against rodents, and shall be kept in sound condition and repair. The foundation elements shall adequately support the Building at all points.

c. Protective Treatment. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, cracked, and chipped paint areas in excess of 20 percent (20%) of any individual surface area shall be eliminated, and such surfaces repainted. The area of peeling, flaking or chipped paint shall be calculated by drawing one rectangle around all occurrences of the peeling, flaking and chipped paint on any individual surface and calculating the area of that rectangle. All siding

and masonry joints, as well as those joints between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained 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. Building debris and excess paint or other excess protective treatments shall be removed within thirty (30) days from initiating any construction or painting. Any Person requiring additional time to conclude construction or painting may make application to the Enforcement Officer for an extension of time.

d. Roofs and Drainage. The roof and flashing shall be sound, tight and have no 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 repair and free from obstructions. Roof water and water from intermittent sources such as discharges from sump pumps, foundation drains, or other similar sources, excluding lawn sprinklers, shall not be discharged at a point closer than five feet to any adjoining property line nor in a manner that creates a public nuisance.

e. Windows, Doors and Hatchways. Every window, screen, door and basement hatchway shall be kept in sound condition and repair. Every window shall be fully supplied with window panes which are without dangerous cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Every door, door hinge and door latch on every door necessary for ingress and egress shall be in functional condition. Knobs and/or handles shall be properly installed on all doors. Every door, when closed, shall fit reasonably well within its frame. All sliding doors shall have guides to prevent the door from falling out of track. Every window, exterior door guide and frame shall be constructed and maintained in such relation to the adjacent wall construction so as completely to exclude rain and excessive dampness and substantially to exclude wind from entering the dwelling. Every basement hatchway and window shall be so constructed, screened or maintained as to prevent the entrance of rodents, insects, rain and surface drainage water into the building.

f. Exterior Appurtenances. Exterior appurtenances, including but not limited to awnings, trellises, television antennae, chimneys, fences, architectural details, and retaining walls, shall be installed in a safe and secure manner and shall be maintained in good repair and must meet the requirements of all other portions of the City's code.

g. Stairways and Porches. Every stairway outside of the Building or Dwelling and every porch shall be kept in safe condition and sound repair. Every flight of stairs and every porch floor shall be free of deterioration. Every stairwell and every flight of stairs which is five (5) or more risers high and every porch which is five (5) or more risers high shall have handrails or railings located on one (1) side of such flight of stairs or porch. Every rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled or have pulled away from supporting or adjacent structures so as to create a safety hazard. No flight of stairs shall have rotting, loose or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Every porch shall have a sound floor. No porch shall have rotting, loose or deteriorating supports.

h. Architectural Detail. Exterior architectural detail shall be installed in a safe and secure manner and shall be maintained in good repair and must meet the requirements of all

other portions of the City's code. Architectural details may not be removed or altered without the consent of the Planning Commission.

i. Driveways, Sidewalks and Patios. Driveways, sidewalks and patios shall be maintained in good repair and free of safety hazards. Cracks in concrete or asphalt surfaces causing a vertical offset in excess of one inch shall be repaired or replaced so as to prevent accident or injury. All driveways, sidewalks, and patios shall be made of concrete, asphalt, brick or other dust-free, hard surface.

j. Yards. All areas which are not covered by lawn or vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation located on private property which trees, bushes or vegetation overhang a public thoroughfare shall be properly trimmed to a minimum under-clearance of eight (8) feet over sidewalks or twelve (12) feet over streets to avoid obstruction of the view and movements of vehicles and pedestrians. Trees and shrubs which do not meet the standards in this subparagraph are hazards and shall be promptly removed or trimmed. All dead and diseased trees and shrubs shall be promptly removed. As part of the removal of any growth or vegetation, all stumps shall be removed or ground to at least six (6) inches below grade. All vegetation shall be maintained to acceptable community standards, including: grass no higher than six (6) inches, except for ornamental grasses, and vegetation in front yards to allow for reasonable view of the Dwelling from the street for public security. Weeds (including brush and woody vines) and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property and weeds and grasses and dense growths of wild shrubbery on or about residential property which, because of their height, have a blighting influence on the neighborhood must all be trimmed or removed to meet the standards of this subparagraph. Any rank weeds, any weeds and/or dense growths of wild shrubbery in excess of twelve (12) inches in height, and any grasses in excess of six (6) inches in height, except for ornamental grasses, shall be presumed to be blighting and may be abated as a public nuisance by the Enforcement Officer after notice to the Owner in accordance with Section 5-509.

k. Infestation. Each commercial or retail district Building and each Dwelling and all exterior appurtenances on the Dwelling shall be adequately protected against entrance of insects, rats, mice, bats, termites and other infestation. Building defects, which permit the entrance of insects, rats, mice, termites and other infestation, shall be corrected by the Owner.

l. Plantings. No tree, bush or shrub shall be planted or permitted to grow in such a fashion that it shall touch or come in contact with any Building or part thereof in such a manner which is likely to cause damage thereto nor shall any tree, bush or shrub be planted within one (1) foot of any Building foundation. Further, no unmaintained wild or volunteer tree or seedling shall be permitted to grow along a fence line.

m. Trash. All premises shall be kept free of garbage, rubbish and other trash, and any such garbage, rubbish or trash shall be disposed of in adequate storage containers for the deposit of garbage, rubbish or trash until the date of pickup. All such storage containers shall be constructed to repel animals. The type and location of such containers must conform to the Code of the City of Westwood Hills.

5-506. MINIMUM STANDARDS FOR DWELLING UNITS AND COMMERCIAL OR RETAIL AREAS.

a. Applicability.

It shall be unlawful for any Person to own, occupy, rent, lease, or hold out to another for occupancy for the purpose of living, sleeping, cooking or eating any Dwelling Unit which is not safe, sanitary and fit for human habitation and which does not comply with the particular requirements of this Article. Additionally, it shall be unlawful for any Person to own, occupy, rent or lease any other Building as a Commercial or Retail Area unless such Building is safe and sanitary and complies with the requirements of this Article.

b. Interior cellars, etc. to be maintained free from dampness.

Cellars, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

c. Interior structural members.

The supporting structural members shall be structurally sound, showing no evidence of deterioration which would render them incapable of carrying the imposed loads in accordance with the provisions of the Building Code.

d. Interior stairs.

All interior stairs shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or that are broken, warped or loose. Every inside stair shall be so constructed and maintained so as to be safe to use and to be capable of supporting a load as required by the provisions of the Building Code.

e. Interior handrails.

Every inside staircase or stairway consisting of five (5) or more steps shall be equipped with a handrail which shall be kept in sound condition and good repair.

f. Bathroom and kitchen floors.

Every toilet, bathroom and kitchen floor surface shall be constructed and maintained with a material approved for the location and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.

g. Interior sanitation.

The interior shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage as specified in this Article. Additionally, all interiors shall be kept free of any accumulation of materials which could inhibit ingress or egress from the Dwelling Unit or other Building which could endanger the safety of the occupants. Trash, Garbage and other refuse shall be properly kept inside temporary storage facilities until the evening prior to scheduled trash pick-up.

h. Interior insect and rodent harborage.

All Dwellings and other Buildings shall be kept free from insect and rodent infestation, and where insects or rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health, as specified in this Article. After extermination, proper precautions shall be taken to prevent re-infestation.

i. Interior walls, ceilings and floors.

Interior walls and ceilings shall be kept in sound condition and good repair and shall be constructed of a building material recognized for that purpose.

j. Interior sanitary facilities.

The following minimum sanitary facilities shall be supplied and maintained in sanitary, safe and working condition:

1. Toilet. Every Dwelling Unit shall contain a room, separate from the other habitable rooms of the Dwelling Unit, which affords privacy to a Person within such room, and which is equipped with a flush toilet and a lavatory basin, provided that such lavatory basin may be located outside such room if it is convenient to such room.

2. Bathtub or shower. Every Dwelling Unit shall contain a room, separate from the other habitable rooms of the Dwelling Unit, which affords privacy to a Person within such room and which is equipped with a bathtub or shower.

3. Kitchen sink. Every Dwelling Unit shall contain a kitchen sink in good working condition and properly connected to an approved water and sewer system.

4. Stove and refrigerator. Every Dwelling Unit shall contain proper and safe connections for the installation of a stove and refrigerator.

5. Shelf and storage place for food. Every room which is used partially or exclusively for cooking shall contain adequate shelf and storage space for the preparation and storage of food.

k. Interior water and sewer system.

Every kitchen sink, lavatory basin, bathtub or shower and toilet installed within any Building shall be properly connected to both a public water and sewer system and shall be maintained in clean, safe and working order. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.

l. Interior water heating facilities.

Water heating facilities shall be installed in an approved manner, properly maintained, and properly connected with hot water lines to the fixtures required to be supplied with hot water under the provisions of this Article. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower, and laundry facility or other similar units at a temperature of not

less than one hundred thirty (130) degrees Fahrenheit at any time needed.

m. Interior heating facilities.

Heating facilities shall be installed in an approved manner, be maintained in safe and good working condition, and be capable of safely and adequately heating all habitable rooms, bathrooms, and toilet rooms located in the Dwelling Unit and all Commercial or Retail Areas to a temperature of at least seventy (70) degrees Fahrenheit at a distance of three (3) feet above floor level and under ordinary winter conditions.

n. Interior trash storage facilities.

Every Dwelling Unit and every Commercial or Retail Area shall have adequate trash storage facilities whose type and location are in accordance with the provisions of the Code of the City of Westwood Hills.

o. Interior functioning and maintenance of facilities and equipment.

Every supplied facility, piece of equipment, or utility which is required under this Article shall be so constructed and installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

p. Interior Plumbing systems and fixtures.

Water lines, plumbing fixtures, vents, drains, plumbing stack and waste and sewer lines shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks, and defects and shall be capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the Building Code or plumbing code of the City.

q. Interior ceiling heights - minimum.

At least one-half of the floor area of each habitable room shall have a ceiling height of seven (7) feet or more, and the floor area of that part of any room where the ceiling height is five (5) feet or less shall not be deemed as part of the floor area in computing the total area of that room for the purposes of Section 5-506(s) hereof.

r. Interior ceiling heights - public halls and stairways.

Every public hall or stairway shall have a minimum vertical clearance of six (6) feet eight (8) inches at all places, provided that the Enforcement Officer may waive this requirement if the construction of the Dwelling is such as to make this requirement impractical. Where a waiver is granted for rented or leased Dwelling Units, the Owner or Landlord shall post a written warning of low clearance which shall be easily visible and which shall be approved by the Enforcement Officer.

s. Interior required space in Dwelling Units.

Every rented or leased Dwelling Unit shall contain one hundred fifty (150) square feet or

more of floor space for the first Occupant thereof and at least one hundred (100) square feet of additional floor space for each additional Occupant thereof, provided that an infant under the age of twelve (12) months shall not be deemed an Occupant for the purposes of this section. The floor space shall be calculated on the basis of total habitable room area.

t. Interior occupancy of Dwelling Units below grade.

No Dwelling Unit partially below grade shall be used for living purposes unless floors and walls are watertight; unless total window area, total operable area and ceiling height are in accordance with this Article, provided that this provision can be waived by the Enforcement Officer; and unless required minimum window area of every habitable room is entirely above the grade of the ground adjoining such window area, provided this provision can be waived by the Enforcement Officer. No basement or cellar, or part thereof, shall be used or leased for human occupancy or habitation if subject to flooding. For the purposes of this Article, a basement or cellar shall be deemed to be subject to flooding if at any time there has been more than one inch of water over the floor and if the condition or conditions which caused the flooding to occur have not been subsequently corrected.

u. Interior natural light in habitable rooms in Dwelling Units.

1. Every habitable room shall have at least one window of approved size facing directly to the outdoors or to a courtyard or shall incorporate other methods and devices that will provide the equivalent minimum performance requirements.

2. The minimum total window area, measured between stops, for every habitable room shall be ten (10) percent of the floor area of such room. In a basement or cellar, a three (3) square foot window area shall be deemed sufficient. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a courtyard and shall not be included as contributing to the required minimum total window area for the room.

3. In the application of this Article, the standard for light for all habitable rooms shall be based on two hundred fifty (250) foot candles of illumination on the vertical plane adjacent to the exterior of the light transmitting device and shall be adequate to provide an average illumination of six (6) foot candles over the area of the room at a height of thirty (30) inches above the floor level.

v. Interior light in halls and stairways.

Every hall and inside stairway in every Dwelling and every Commercial or Retail Area shall be capable of being lighted at any time with an illumination of at least five (5) candlepower per square foot in the darkest portion of the normally traveled stairs and passageways.

w. Interior electrical outlets and light fixtures required.

Every Dwelling and every Commercial or Retail Area shall be serviced by electricity. Further, every electrical outlet and fixture, and all electrical wiring required by this section, shall be properly installed, maintained in good and safe working condition, and connected to the source

of electricity in a safe manner and in accordance with the provisions of the Building Code or electrical code of the City. For the purposes of this section, a two (2) plug electric convenience outlet shall be deemed to be a single outlet. Unless otherwise specified in any other code or requirement of the City (in which case, the most stringent requirement shall apply) every Dwelling and every Commercial or Retail Area, shall be electrically equipped as follows:

1. Every habitable room shall contain two (2) or more wall-type electric convenience outlets or one (1) or more wall-type electric convenience outlets and one (1) electric ceiling or wall light fixture.

2. Every toilet room, bathroom laundry room, and furnace room shall contain one or more ceiling or wall-type electric light fixtures.

3. Every hall, stairway, basement and porch in a Dwelling or Commercial or Retail Area shall contain sufficient ceiling or wall-type electric light fixtures to comply with the Code of the City of Westwood Hills.

4. A separate electrical circuit shall be required as set forth in the Building and Electrical Codes and requirements of the City of Westwood Hills for every eight (8) electrical convenience outlets for alterations, repairs and additions.

5. In Dwellings or Commercial or Retail Areas utilizing electric heat and/or an electric cooling unit in which the source of heat is wholly or partially operated by a centrally located electrical unit, a separate electrical circuit will be required for each such device.

x. Correction of defective interior electric system.

Where the Enforcement Officer finds that the electrical system in a Dwelling or Commercial or Retail Area constitutes a hazard to the occupants of the building by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, the electrical system shall be corrected to eliminate the hazard.

y. Adequate interior ventilation.

Every room in every Dwelling or Commercial or Retail Area shall have at least one window which can be easily opened or such other device as will adequately ventilate the room, except that no operable window shall be required in bathrooms or toilet compartments equipped with an approved ventilation system. The total operable window area in every room shall be equal to at least forty-five (45) per cent of the minimum window area size required in the Code of the City of Westwood Hills.

z. Interior disposal of garbage.

Every Occupant of a Dwelling shall dispose of his or her garbage in a clean and sanitary manner by placing it in garbage disposal facilities or garbage storage containers; provided that, if garbage disposal facilities are not supplied, it shall be the responsibility of the Owner to supply proper garbage storage containers, for all Dwelling Units. Every Dwelling Unit offered for lease or rent shall have adequate storage facilities, which shall be constructed to repel animals, for the deposit of garbage until the date of pickup. The type and location of these containers must

conform to the Code of the City of Westwood Hills. It shall be the responsibility of the Owner and every Occupant of a rented or leased Dwelling Unit to see that garbage is deposited at curbside as required in said Code. For Commercial or Retail Areas, all garbage shall also be disposed of in garbage storage containers, designed to repel animals, until the date of pickup.

aa. Overcrowding not allowed. Overcrowding of a Dwelling shall be a violation of this Article. Overcrowding is defined as occupancy by more than two (2) persons of the same sex per bedroom or by more than either a married couple or a couple holding itself out as single housekeeping unit in one bedroom.

bb. Rental property license. A Rental property license is required for every rented or leased Dwelling Unit as provided in Chapter 6.

5-507. ACCESSORY STRUCTURES. Accessory Structures shall not obstruct light and air of doors and windows of any Building or Dwelling Unit, obstruct a safe means of access to any Dwelling Unit, create fire and safety hazards, or provide rat or insect harborage. Accessory Structures shall be securely anchored.

5-508. EGRESS.

a. Egress. Every Building and Dwelling Unit shall have a safe and unobstructed means of egress leading to safe and open space outside at the ground level. Passage through such exit shall not lead through any other Building or Dwelling Unit.

b. Structures With Two and One-Half Stories. All Buildings or habitable Structures of two and one-half (2 ½) stories with Dwelling Units occupying the higher story shall be provided with two (2) separate, usable and unobstructed means of egress for each Dwelling Unit located above the second story.

5-509. ENFORCEMENT.

a. Enforcement Officer. It shall be the duty and responsibility of the Enforcement Officer and his delegated representatives to enforce the provisions of this Article. The exterior of all premises are subject to periodic inspection by the Enforcement Officer. The Enforcement Officer shall have the authority to render interpretations of this Article 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 purposes of this Article. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Article.

The Enforcement Officer shall determine if a property is in violation of this Article 5 or violation of any other law or regulation relating to the use of land and the use and occupancy of the buildings and improvements. Additionally, the Enforcement Officer shall investigate any property if the City Clerk has been notified of concerns about the condition of the a specific property, and in such case, the Enforcement Officer shall determine, in his reasonable judgment, whether any violations of this Article 5 exist with respect to such property.

b. Liability. The Enforcement Officer, member of the Board of Code Appeals or any employee or agent of the City charged with enforcement of this Article, while acting for the City,

in good faith and without malice in the discharge of the duties required by this Article or other pertinent ordinance, shall not thereby be rendered liable personally, and any such person is hereby relieved of all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any such officer, employee or agent in the lawful discharge of duties under the provisions of this Article shall be defended by the legal representative of the City until the final termination of the proceedings. Any such person shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Article, provided that such person acted in good faith and without malice in the discharge of his or her duties.

c. Inspections. In addition to the Enforcement Officer's individual inspection as provided for in Section 5-509(a) hereof, exterior inspections may also be initiated by notification from the City Clerk acting on behalf of the City Council which has directed a systematic inspection block-wide or City-wide. All such inspections shall be exterior property inspections. Interior inspections shall be initiated only under the following circumstances:

1. When, on the basis of a complaint, personal observation or other information, the Enforcement Officer reasonably suspects that a building or dwelling, offered for lease or rent or leased or rented in whole or in part, has code violations and as such constitutes a health and/or safety hazard.

2. Where an inspection is a requirement of a specific building or dwelling improvement for which a building permit has been issued, if requested by the Building Official, the Enforcement Officer is authorized and directed to make inspections to determine whether buildings, dwellings or accessory structures and premises located within the City conform to the requirements of this Article. For the purpose of making such inspections, the Enforcement Officer is authorized, at reasonable times, with the consent of the Owner thereof, to enter, examine and survey all buildings, dwellings, accessory structures and premises.

3. Inspections may also take place by obtaining an appropriate warrant or other order as provided by law.

The Enforcement Officer shall issue a report to the City Council of all inspections conducted pursuant to this Section 5-509(c).

d. Access for purpose of inspections. The Enforcement Officer is authorized to conduct inspections to determine the conditions of all structures and premises governed by this ordinance in order to safeguard the safety, health and welfare of the public under the provisions of this Article and as limited by Section 5-509(c) above. The Enforcement Officer is authorized to enter any Building or premises at any reasonable time, with the consent of an Owner, Occupant, Landlord or person in charge thereof, for the purpose of performing the duties under this Article. The Owner, Occupant, Landlord or person in charge of each Building or premises governed by this ordinance shall give the Enforcement Officer reasonable access thereto and to all parts thereof and to the premises on which it is located at all reasonable times for the purpose of such inspection, examination and survey. In the event the Owner, Occupant, Landlord or person in charge of such Building or premises shall refuse access to any building or premises, the Enforcement Officer may make application to the District Court for a search warrant.

5-510. VIOLATIONS: PROCESS, NOTICES AND ORDERS.

a. Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Article.

b. Process for Notice of Violations; Procedures.

1. Informal Discussion. Whenever the Enforcement Officer determines that there may be a violation of any provision of this Article 5, the Enforcement Officer will arrange with the alleged violator for an informal discussion of violations and shall then determine whether repair and correction is required. Further, should the Enforcement Officer order the maintenance or repair of an element of a structure, the property Owner shall not remove said element unless the Enforcement Officer has first determined that the removal of said element would not increase the rate of deterioration of said structure. Additionally, the property Owner shall not remove said element unless the Enforcement Officer, with the advice of the State Historic Preservation Office, determines that such removal would not have a negative impact on the architectural integrity or historic nature of the structure. No further process shall be required if the Owner repairs or corrects any violation noted by the Enforcement Officer within a reasonable amount of time allowed by the Enforcement Officer for such corrective action. The Enforcement Officer shall notify the City Clerk by letter or e-mail of all informal discussions. The City Clerk shall share this information with the City Council as the Council directs.

2. Formal Notice of Violation. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming after informal discussions between the Owner and the Enforcement Officer or after the Enforcement Officer is unable to conduct informal discussions with the Owner, then a legal notice of a violation shall be issued according to the following procedures:

(a) Notice shall be in writing.

(b) The notice shall list the violations alleged to exist or to have been committed.

(c) The notice shall provide a reasonable time, but not less than 30 days in any event, for the correction of the violations particularized. Additionally, for good cause, the Enforcement Officer, in his reasonable discretion, may extend any time allowed for correction of violations.

(d) The notice shall be addressed to and be served upon the Owner of the property, the operator of the building, and the occupant of the building, if the occupant is or may be responsible for the violation.

(e) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the Enforcement Officer shall include in the record a verified statement giving details regarding the mailing.

(f) If one or more Persons to whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such Person or Persons by posting a notice in a conspicuous place in or about the building affected by the notice, in which event the Enforcement Officer shall include in the record a statement as to why such posting was

necessary.

(g) Notice shall be deemed served on the date personally served, on the date three (3) days after deposit of the notice in the United States Mail, or on the date ten (10) days after posting.

3. Remedy of Defects. The Owner of any building shall remedy the condition specified in the notice of violation within the time designated therein; however, the Enforcement Officer may, at his discretion, extend the time for compliance with any such notice upon good cause shown. Nothing herein, however, shall require the Enforcement Officer to grant an additional notice or to undertake any administrative action prior to a complaint issuing in the Municipal Court of Westwood Hills, Kansas. It shall not be a defense to any such complaint that the Owner of any building has undertaken to remedy the condition specified.

4. Re-inspection. At the time when the defects have allegedly been brought into compliance, the Enforcement Officer shall re-inspect the building, dwelling, or accessory structure and its premises. At that time, he shall take particular notice of whether the violations previously noted have been brought into compliance and whether any hazardous conditions have come into existence during the time which has elapsed since the first inspection.

5. Non-compliance with Formal Notice of Violation. Any person failing to comply with the notice of violation served in accordance with this provision, after expiration of any cure period, shall be deemed in violation of these ordinances, and the violation shall be deemed a Strict Liability Offense.

5-511. PROSECUTION OF VIOLATION.

- a. Prosecution. In case any violation of this Article is not remedied within the prescribed time period designated by the Enforcement Officer, the Enforcement Officer may file a complaint in municipal court.
- b. Remedies Not Exclusive. The authority of the City and its rights and remedies herein shall be in addition to, and not to the exclusion of, all other authority, rights or remedies.

5-512. BUILDINGS UNFIT FOR HUMAN HABITATION.

a. Placard on Building. The designation of buildings or dwellings as unfit for human habitation and the procedure for such declaration and placarding of such unfit buildings or dwellings shall be carried out in compliance with the following requirements. Any buildings or dwellings, which shall be declared unfit for human habitation, shall be so designated and placarded by the Enforcement Officer when the Person responsible has failed to correct the condition set forth in a notice issued in accordance with this ordinance. Buildings which are unfit for human habitation are ones which are so damaged, decayed, dilapidated, unsanitary, unsafe, insect infested or rodent infested or so filled with combustible materials that they create a serious hazard to the health or safety of the occupants or the public.

- b. Building to be Vacated. Any building or dwelling condemned as unfit for human

habitation and so designated and placarded by the Enforcement Officer shall be vacated within a reasonable time as ordered by the Enforcement Officer.

c. Reoccupation of Building. No building or dwelling which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from and such placard removed by the Enforcement Officer. The Enforcement Officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

d. Unlawful to Remove Placard. No Person shall deface or remove the placard from any building or dwelling which has been condemned as unfit for human habitation and placarded as such, except as provided in Section 5-509(c).

e. Vacated Buildings to Be Made Secure. The Owner of every building or dwelling which is condemned as unfit for human habitation or for continued occupancy shall make the dwelling or building safe and secure so that it shall not be dangerous to human life and shall not constitute a fire hazard or public nuisance. Any such vacant building or dwelling open at doors or windows, if unguarded, shall be deemed to be dangerous to human life as a fire hazard and public nuisance within the meaning of this provision.

5-513. BROKEN GLASS AND BOARDING UP.

a. Applicability. Every window, glazed exterior door, exterior transom, or exterior sidelight shall be provided with properly installed glass or other approved glazing material. In the event of breakage, the Owner shall cause the simultaneous removal of broken glass from the Premises and shall temporarily board up the affected openings with suitable material to provide protection from the elements, to prevent entry of birds or animals, and to provide security to Occupants or contents of the Building. Within ten (10) days after the boarding up, the Owner shall cause the boarding material to be removed, and all affected openings shall be immediately re-glazed by the Owner.

b. Enforcement. Whenever any exterior openings are found boarded up in an occupied Building or Dwelling, it shall be the duty of the Enforcement Officer to notify the Owner or the agent of the above requirement, giving him a period of not more than ten (10) working days in which properly to replace the broken glass or cause the Building or Dwelling to be vacated. If necessary materials are not available within this period, the Enforcement Officer may grant an extension of time at his discretion.

c. Specifications. All boarding up of exterior openings shall be accomplished in a neat, workmanlike manner. The Enforcement Officer is authorized to notify the Owner or agent of any boarded up Building or Dwelling not complying with the ten (10) day requirement of the necessity of immediate compliance and to order the Owner to replace the glazing within ten (10) working days.

5-514. EMERGENCY MEASURES.

a. When any Dwelling Unit has become so damaged by fire, wind or other causes, or has become so unsafe, unhealthful or unsanitary that, in the opinion of the Enforcement Officer, life or health is immediately endangered by the occupancy of the Dwelling Unit, the Enforcement

Officer is hereby authorized and empowered to revoke without notice any rental property license for such Dwelling Unit; to order and require the Occupants to vacate the same forthwith; and to order the Owner, Landlord or agent of either to proceed immediately with the corrective work and repairs required to make the Dwelling Unit safe and fit for human habitation. The Enforcement Officer may take any and all of these measures whether a notice of violation has or has not been given as described in this Article and whether legal procedures described by City ordinances have or have not been instituted.

b. In the event the Enforcement Officer determines that there is an immediate danger to the health, safety or welfare of any Person, the Enforcement Officer may take emergency measures to vacate and repair the structure or otherwise remove the immediate danger.

c. Written notice shall be given to the Owner, Landlord, Occupant, lessee, mortgagee, agent and all other Persons having an interest in such Building or Structure as promptly as possible. The cost of any such emergency work shall be collected as a tax lien in the same manner as herein above provided. Posting said notice on the door of the Building in question or in any other conspicuous fashion shall be sufficient in the event the Owner, Landlord, Occupant, lessee, mortgagee, agent or other Persons having an interest in such Building or Structure cannot be located.

5-515. PENALTIES.

a. Any Person convicted of a violation of this Article shall be punished for that violation by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of not more than one hundred eighty (180) days or by both such fine and imprisonment.

b. Every day that a violation continues shall be considered a separate offense for which the violator may be arrested, tried and convicted without necessity of further notice.