

## CHAPTER VIII. HEALTH AND WELFARE

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### ARTICLE 1. BOARD OF HEALTH

8-101           DEFINITIONS. Unless otherwise specified, the following terms, as used in this article, shall mean as follows:

(a) Health Officer – The maintenance supervisor of the city or his or her authorized representative.

(b) Sanitation Code – Rules and regulations adopted by the city which are designated to minimize or control environments and environmental conditions that may adversely affect the health and well-being of the public, such as but not limited to liquid wastes, solid wastes, weeds, insects, rodents, animal shelters, abandoned vehicles, junk, salvage, dilapidated auxiliary structures or other matters as herein presented. (Ord. 479, Sec. 1; Code 2004)

### ARTICLE 2. HEALTH NUISANCES

8-201           NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed within 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited in a sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same,

except as permitted by the laws of the city. (K.S.A. 21-4106:4107; Code 2004)

8-202 MAINTENANCE SUPERINTENDENT The mayor with consent of the council shall designate the maintenance superintendent to be charged with the administration and enforcement of this article. (Code 2004)

8-203 COMPLAINTS; INQUIRY AND INSPECTION. The maintenance superintendent shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the City Clerk, Chief of Police or the Fire Chief. The maintenance superintendent may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the maintenance superintendent shall make a written report of findings. (Code 2004)

8-204 RIGHT OF ENTRY. The maintenance superintendent has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2004)

8-205 ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the maintenance superintendent to be in violation of section 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2004)

8-206 SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-201. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from the date of serving the order to abate the condition(s) in violation of section 8-201; provided, however, that the governing body or its designee named in section 8-205 shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-201; or,

(b) He, she or they have 10 days from the date of serving the order, plus any additional time granted under subsection (a), to request a hearing

before the governing body or its designated representative of the matter as provided in section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208. (Code 2004)

8-207

**FAILURE TO COMPLY; PENALTY.** Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the maintenance superintendent may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense (Code 2004)

8-208

**ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-207, the maintenance superintendent may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-206, the maintenance superintendent may request a resolution from the governing body for adoption authorizing the maintenance superintendent or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the maintenance superintendent and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2004)

8-209

**HEARING.** If a hearing is requested within the 10 day period as provided in section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall

constitute a waiver of the person's right to contest the findings of the maintenance superintendent. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-208. (Code 2004)

8-210 COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of a total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2004)

**ARTICLE 2A. ENVIRONMENTAL CODE**

8-2A01 TITLE. This article shall be known as the "Environmental Code. (Code 2004)

8-2A02 LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement and regulation of such conditions in the manner hereafter provided. (Code 2004)

8-2A03 PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and

residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2004)

8-2A04

**RULES OF CONSTRUCTION.** For the purpose of this article, the following rules of construction shall apply:

(1)Any part thereof – Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words “or any part thereof.”

(2)Gender – Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.

(3)Number – Words of number shall be construed to mean singular or plural, as may be applicable.

(4)Tense – Words of tense shall be construed to mean present or future, as may be applicable.

(5)Shall – The word shall is mandatory and not permissive.

(Code 2004)

8-2A05

**DEFINITIONS.** The words and phrases listed below when used in this article shall have the following meanings:

(1)Abandoned Motor Vehicle – any motor vehicle which is not currently registered or tagged pursuant to K.S.A 8-126 TO 8-149 inclusive as amended; or parked in violation of the code; or incapable of moving under its own power; or in a junked or wrecked condition.

(2)Accessory Structure – a secondary structure detached from the principle structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.

(3)Commercial or Industrial – used or intended to be used primarily for other than residential purposes.

(4)Dilapidation, Deterioration or Disrepair – shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

(5)Exterior – those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(6)Garbage – without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

(7)Person – any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

(8)Premises – any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(9)Refuse – garbage and trash.

(10)Residential - used or intended to be used primarily for human habitation.

(11)Structure – anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(12)Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(13)Weathered - deterioration caused by exposure to the elements.

(14)Yard – the area of the premises not occupied by any structure.  
(Code 2004)

8-2A06 MAINTENANCE SUPERINTENDENT. The mayor with the consent of the council shall designate a maintenance superintendent to be charged with the administration and enforcement of this article. (Code 2004)

8-2A07 ENFORCEMENT STANDARDS. No person shall be found in violation of this article unless the maintenance superintendent, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2004)

8-2A08 UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a)Exterior conditions (yard) shall include, but be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

(2) abandoned motor vehicles; or

(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b)Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 2004)

8-2A09 ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the maintenance superintendent to be in violation of section 8-2A09 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return

receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

(1) The condition which has caused the violation of this article; and

(2) That the person in violation shall have:

(i) 10 days from the date of the mailing of the order to alleviate the exterior conditions (yard) violation; and/or;

(ii) 45 days from the date of the mailing of the order to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above,

(iii) 10 days from the date of the mailing of the order, plus any additional time granted under subsection (c), to request, as provided in section 8-2A12 a hearing before the governing body or its designated representative on the matter; and

(c) Provided, however, that the governing body for its designee named herein shall grant one or more extensions to the time periods stated in subsections (ii) and (iii), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-2A10 and/or abatement of the condition by the city according to section 8-2A11 with the costs assessed against the property under section 8-2A14.

(K.S.A. 12-1617e; Code 2004)

#### 8-2A10

**PENALTY.** The maintenance superintendent may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 8-2A09 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2004)

#### 8-2A11

**ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-2A10, the maintenance superintendent may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-2A09 has neither alleviated

the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09, the maintenance superintendent may request a resolution from the governing body for adoption authorizing the maintenance superintendent or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-2A14.

A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the maintenance superintendent and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2004)

8-2A12

**HEARING.** If a hearing is requested within the 10 day period as provided in section 8-2A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the maintenance superintendent. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-2A11. (Code 2004)

8-2A13

**APPEALS.** Any person affected by any determination of the governing body under sections 8-2A11:2A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2004)

8-2A14

**COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the

abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also stated that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1, 115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2004)

8-2A15 CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2004)

### **ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY**

8-301 FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

- (a) Serves as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
- (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
- (c) Are a ready source of fire and explosion;
- (d) Encourage pilfering and theft;
- (e) Constitute a blighting influence upon the area in which they are located;
- (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures. (Code 2004)

8-302 DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:

- (a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
- (b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time. (Code 2004)

8-303 NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

(a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 TO 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:

(1) Absence of a current registration plate upon the vehicle;  
(2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;

(3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

(b) The provisions of this article shall not apply to:

(1) Any motor vehicle which is enclosed in a garage or other building;

(2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or

(3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance. (Code 2004)

8-304 MAINTENANCE SUPERINTENDENT. The mayor with the consent of the council shall designate a maintenance superintendent to be charged with the administration and enforcement of this article. (Code 2004)

8-305 COMPLAINTS; INQUIRY AND INSPECTION. The maintenance superintendent shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the maintenance superintendent, chief of police or the fire chief. The maintenance superintendent may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the maintenance superintendent shall make a written report of findings. (Code 2004)

8-306 RIGHT OF ENTRY. The maintenance superintendent has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2004)

8-307 ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the maintenance superintendent to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the

governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e Code 2004)

8-308 SAME, CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from the date of serving the order to abate the condition(s) in violation of section 8-303; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body or its designated representative of the matter as provided by section 8-312;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310. (Code 2004)

8-309 FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the maintenance superintendent may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2004)

8-310 ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-309, the maintenance superintendent may seek to remedy violations of this article in the following manner. If a person to whom an order has been sent pursuant to 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-309, the maintenance superintendent may present a resolution to the governing body for adoption authorizing the maintenance superintendent or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-313. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Service by certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the maintenance superintendent and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2004)

8-311 DISPOSTION OF VEHICLE; RECOVERY OF VEHICLE. (a) Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A Supp. 8-1102, as amended.

(b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle. (Code 2004)

8-312 HEARING. If a hearing is requested within the 10 day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the maintenance superintendent. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in section 9-310. (Code 2004)

8-313 COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be

collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2004)

#### ARTICLE 4. WEEDS

8-401 WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Ord. 417, Sec. 1; Code 2004)

8-402 DEFINITIONS. Weeds as used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which bear or may bear seeds of a downy or wingy nature.
- (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
- (e) Weeds and grasses on or about any property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height. (Ord. 417, Sec. 2; Code 2004)

8-403 MAINTENANCE SUPERINTENDENT; NOTICE TO REMOVE. (a) The mayor shall designate a maintenance superintendent to be charged with the administration and enforcement of this article. The maintenance superintendent or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.

- (b) The notice to be given hereunder shall state:
  - (1) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;
  - (2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;
  - (3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper;
  - (4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and

assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) that no further notice will be given during the current calendar year prior to the removal of weeds from the property; and,

(7) that the maintenance superintendent should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this article.

(Ord. 417, Sec. 3; Code 2004)

8-404

**ABATEMENT; ASSESSMENT OF COSTS.** (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified section 8-403, the maintenance superintendent or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within a 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 12-1617f; Ord. 417, Sec. 4; Code 2004)

8-405

**RIGHT OF ENTRY.** The maintenance superintendent, and the maintenance superintendent's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Ord. 417, Sec. 5; Code 2004)

8-406

**UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere with or to attempt to prevent the maintenance superintendent or the maintenance superintendent's authorized representative from entering upon

any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Ord. 417, Sec. 6; Code 2004)

8-407 NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*). (K.S.A. 2-1314; Ord. 417, Sec. 7; Code 2004)

8-408 INDIGENOUS GRASSES. Indigenous grasses, or natural prairie grasses, shall not be considered weeds and may be maintained within the corporate limits of the city in public or private areas exceeding five acres in contiguous size, if the following are met:

(a) An attractive wooden or stone sign is posted designating the area a natural grasses reclamation area;

(b) The area is maintained free of noxious weeds as described in Section 407 of this chapter;

(c) The area is maintained free of trash or debris which would cause the area to become unsightly; and

(d) The property owner or agent shall maintain a mowed area of at least five (5) feet between tall natural grasses and any abutting residential property of less than 25 acres.

Such grasses may also be used for erosion control purposes on appropriate road, rail, and watercourse projects with the approval of the city council upon recommendation of the city engineer.

The Kansas State Extension Service, may provide expert advice on appropriate maintenance practices for such grasses, but enforcement of this section shall be in accordance with section 403 of this article. (Ord 604, Sec. 1)

## **ARTICLE 5. MINIMUM HOUSING CODE**

8-501 TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2004)

8-502 GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2004)

8-503 DECLARATION OF POLICY. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and

mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation;

(a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;

(b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.

(c) Determines the responsibilities of owners, operators and occupants.

(d) Provides for the administration and enforcement thereof.  
(Code 2004)

8-504

DEFINITIONS. The following definitions shall apply to the enforcement of this code:

(a) Basement shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(b) Cellar shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(c) Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.

(d) Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.

(e) Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

(f) Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.

(g) Infestation shall mean the presence, within or around a dwelling, of insects, rodents, or other pests.

(h) Multiple Dwelling shall mean any dwelling containing more than two dwelling units.

(i) Occupant shall mean any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

(j) Operator shall mean any person who has charge, care, owns, or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.

(k) Owner shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises 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, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and

meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

(l) Person shall mean and include any individual, firm, corporation, association or partnership.

(m) Plumbing shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closet, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

(n) Premise shall mean any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

(o) Rooming House shall mean any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(p) Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(q) Refuse. For the purpose of this article refuse shall include garbage, and trash.

(1) Garbage shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.

(2) Trash (Combustible). For the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

(3) Trash (Non-Combustible). For the purpose of this article non-combustible trash shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.

(r) Structure shall mean anything constructed or erected on the ground or attached to something having a location on the ground.

(s) Supplied shall mean paid for, furnished, or provided by or under the control of, the owner or operator.

(t) Temporary Housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, house or building or another structure, or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

(u) Words – Meanings. Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” “premises,” and are used in this article, they shall be construed as though they were followed by the words “or any part thereof.” (Code 2004)

(a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-508:509.

(b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he or she occupies and of which he or she has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this code applicable to the premise.

(c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

(e) Notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner. (Code 2004)

8-506

#### REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) Attached Garages or Non-dwelling Areas. All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

(b) Basement or Cellar. The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.

(c) Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the maintenance superintendent may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

(d) Bathing Facilities. Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

(e) Boarding and Rooming Houses. No room shall be used for sleeping purposes unless the ceiling height is at least seven feet and there are at least 400 cubic feet of air space for each occupant over six years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet over at least 50% of the floor area.

(1) Bathing facilities shall be provided in the form of a tub or shower for each eight occupants. Separate facilities shall be provided for each sex and plainly marked.

(2) A flush water closet shall be provided for each six occupants and shall be separated with the separate access from bathing facilities if more than four occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.

(f) Drainage. All courts, yards or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are excepted from this section.

(g) Entrances. (1) There shall be for each dwelling unit a normally used separate access either to a hallway, stairway, or street, which is safe and in good repair.

(2) A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard or egress.

(h) Floor Area. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this subsection.

(i) Garbage and Trash Receptacles. Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32 gallon capacity, as may be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

(j) Heating. Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of 70 degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order, and the owner of the approved heating equipment shall maintain it in good order and repair.

(k) Kitchen Sink. In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the city health department.

(l) Lavatory Facilities. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.

(m) Lighting. Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor, or at least two wall or floor outlets.

(n) Lighting of Toilets and Bathrooms. Every toilet and every bathroom in every dwelling shall have at least one electric light in either the ceiling or on the wall.

(o) Plumbing. All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

(p) Privies. All pit privies, privy vaults, "dry hopper" sewer-connected privies and frost-proof closets are hereby declared to be a public nuisance.

(q) Toilet Facilities. There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room which affords privacy.

(r) Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window or windows openable directly to the outside air and the total area of such window or windows shall be not less than five percent of the floor area of such room. Toilet compartments shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the "on" position.

(s) Water Heating Facilities. Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.

(t) Windows and Doors. Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair (Code 2004)

8-507 MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 2004)

8-508 DESIGNATION OF UNFIT DWELLINGS. The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(a) The Maintenance Superintendent may determine, or five citizens may petition in writing, that any dwelling unit is unfit for human use or habitation if he, she or they find that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the neighborhood, or which shall have a blighting influence on properties in the area.

(b) Such Conditions may include the following without limitation:

(1) Defects therein increasing the hazards of fire, accident, or other calamities.

(2) Lack of:

(i) Adequate ventilation.

(ii) Light.

(iii) Cleanliness.

(iv) Sanitary facilities.

(3) Dilapidation.

(4) Disrepair.

(5) Structural defects.

(6) Overcrowding.

(7) Inadequate ingress and egress.

(8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.

(9) Air Pollution

(c) Placarding – Order to Vacate. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the maintenance superintendent shall be vacated within a reasonable time as so ordered.

(d) Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

(e) Compliance Required before Reoccupancy. No dwelling or dwelling unit 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 is removed by the maintenance superintendent.

(1) The maintenance superintendent shall remove any placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(2) It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this code.

(3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the maintenance superintendent as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code. (Code 2004)

8-509

DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL). The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

(a) The Maintenance Superintendent may determine, or five citizens may petition in writing, that if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:

(1) Dead trees or other unsightly natural growth.

(2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

(3) Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

(b) Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto. (Code 2004)

8-510

DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL). (a) Certain Blighted Conditions covered in section 8-508:509 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) Notice of Violation. Procedures of notification shall follow those prescribed in section 8-512. (Code 2004)

8-511

INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES. (a) For the Purpose of Determining Compliance with the provisions of this

code, the maintenance superintendent or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

(b) The Maintenance Superintendent is not limited by the conditions in the above paragraph (a) where new construction or vacant premises are involved and may make such inspection at any appropriate time.

(c) The Owner, Operator, and Occupant of every dwelling, dwelling unit, and rooming unit shall give the maintenance superintendent, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.

(d) Every Occupant of a dwelling shall give the owner thereof, or his or her authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code. (Code 2004)

8-512

NOTICE OF VIOLATIONS; PROCEDURES. (a) Informal Discussion. Whenever the maintenance superintendent or his or her authorized representative determines that there has been a violation of any provision of this code, the maintenance superintendent will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) Formal Hearing. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

(1) Shall be in writing.

(2) Shall list the violations alleged to exist or to have been committed.

(3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5) If one or more persons 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 dwelling affected by the notice, in which event the maintenance superintendent or his or her authorized representative shall include in the record a statement as to why such posting was necessary.

(6) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the maintenance superintendent or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing. (Code 2004)

8-513

MAINTENANCE SUPERINTENDENT; AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the maintenance superintendent referred heretofore is hereby authorized, with

the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises. (Code 2004)

8-514 GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:

(a) To Informally Review all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b).

(b) To Take Action as prescribed in section 8-512(b).

(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the maintenance superintendent in enforcement of this code as outline in section 8-518.

(d) Discretionary Authority may be exercised in specific cases where variance from the terms of the code as:

(1) Will not adversely effect the public health, safety or welfare of inhabitants of the city.

(2) Is in harmony with the spirit of this code.

(3) Where literal enforcement of the code will result in unnecessary hardship. (Code 2004)

8-515 ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH. At the time of the placarding and order to vacate specified by section 8-508(c) hereof, the maintenance superintendent shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-512. (Code 2004)

8-516 DEMOLITION BY MAINTENANCE SUPERINTENDENT; PROCEDURE AND COSTS. (a) Failure to Comply with the order under section 8-515 hereof for the alteration or improvement of such structure, the maintenance superintendent, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-509 of the code.

(b) The Cost of Demolition by the Maintenance Superintendent shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fee, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure wa located and the city clerk at the time of certifying other city taxes, shall certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the Structure is Removed or Demolished by the Maintenance Superintendent, he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal and demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (Code 2004)

8-517 CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY. (a) Conflicts between the provisions of this code and with a provision of any

zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 2004)

8-518

**GOVERNING BODY; APPEALS.** (a) Any person, firm, or corporation considering themselves aggrieved by the decision of the maintenance superintendent and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving notice of the decision from the maintenance superintendent, as provided in section 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

(b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least 10 days before the hearing.

(e) Except where an immediate hazard exists as described in section 8-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the maintenance superintendent's order until such time as the governing body has reached a decision on the matter. (Code 2004)

8-519

**RIGHT OF PETITION.** After exhausting the remedy provided in section 8-518, any person aggrieved by an order issued by the maintenance superintendent and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the maintenance superintendent from carrying out the provisions of the order. (Code 2004)

## **ARTICLE 6. RODENT CONTROL**

8-601

**DEFINITIONS.** For the purposes of this article, the following words and phrases shall have the following meanings:

(a) Building. Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.

(b) Occupant. The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

(c) Owner. The owner of any building or structure, whether individual, firm, partnership or corporation.

(d) Rat harborage. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.

(e) Rat-stoppage. A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing. (Code 2004)

8-602 BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 2004)

8-603 NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 2004)

8-604 FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2004)

8-605 REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2004)

8-606 NOTICE TO ERADICATE RATS. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stoppage as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rates. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed

therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2004)

8-607            **CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.** (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

(b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.

(c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.

(d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 2004)

8-608            **INSPECTIONS.** The maintenance superintendent is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2004)

## **ARTICLE 7. ABANDONED WATER WELLS**

8-701            **DEFINITIONS.** Abandoned water wells shall mean a water well determined by the city to be a well:

(a) The use of which has been permanently discontinued; or

(b) Pumping equipment has been permanently removed; or

(c) Is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer or both; or

(d) Poses potential health and safety hazards; or

(e) Is in such a condition it cannot be placed in active or inactive status. (Ord. 376, Sec. 1; Code 2004)

8-702            **PLUGGING OF ABANDONED WELLS.** All water wells abandoned by the landowner on or after June 1, 1993, and all water wells that were abandoned prior to June 1, 1993, which pose a threat to groundwater supplies, shall be plugged or caused to be plugged by the landowner. In all cases, the landowner shall perform the following as minimum requirements for plugging abandoned wells:

(a) The casing shall be cut of three feet below ground surface and removed.

(b) All wells shall be plugged from bottom to top using volumes of material equaling at least the inside volume of the well.

- (c) Plugging top of well:
  - (1) For cased wells a grout plug shall be placed from six to three feet below ground surface;
  - (2) For dug wells, the lining material shall be removed to at least five feet below ground surface, and then sealed at five feet with a minimum of six inches of concrete or other materials approved by the city. Compacted surface silts and clays shall be placed over the concrete seal to ground surface. (Ord. 376, Sec. 2; Code 2004)

8-703

**INACTIVE WELLS.** Landowners may obtain the city's written approval to maintain wells in an inactive status rather than being plugged if the landowner can present evidence to the city as to the condition of the well and as to the landowner's intention to use the well in the future. As evidence of intentions, the owner shall be responsible for properly maintaining the well in such a way that:

- (a) The well and the annular space between the hole and the casing shall have no defects that will permit the entrance of surface water or vertical movement of subsurface water into the well;
- (b) The well is clearly marked and is not a safety hazard;
- (c) The top of the well is securely capped in a watertight manner and is adequately maintained in such a manner as to prevent easy entry by other than the landowner;
- (d) The area surrounding the well shall be protected from any potential sources of contamination within a 50 foot radius.
- (e) If the pump, motor or both, have been removed for repair, replacement, etc., the well shall be maintained to prevent injury to people and to prevent the entrance of any contaminant or other foreign material;
- (f) The well shall not be used for disposal or injection of trash, garbage, sewage, wastewater or storm runoff; and
- (g) The well shall be easily accessible to routine maintenance and periodic inspection.

The landowner shall notify the city of any change in the status of the well. (Ord. 376; Code 2004)

## **ARTICLE 8. INSURANCE PROCEEDS FUND**

8-801

**SCOPE AND APPLICATION.** 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 amount recoverable for the loss or damage to the building or other structure under all policies 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. (Ord 373, Sec. 1; Code 2004)

8-802

**LIEN CREATED.** The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75% of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or

any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Ord. 373, Sec. 2; Code 2004)

8-803 SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-802, the insurer or insurers shall contact the county treasurer, Sedgwick County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the country treasurer, Sedgwick, County, Kansas. (Ord. 373, Sec. 3; Code 2004)

8-804 SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Ord. 373, Sec. 4; Code 2004)

8-805 PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75% of the face value of the policy covering any building or other insured structure, and when all amounts due 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 or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15%, \$5,000 or 10% of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made 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 the 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 or insureds, 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 or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article. (Ord. 373, Sec. 5; Code 2004)

8-806. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Ord. 373, Sec. 6; Code 2004)

8-807 BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this article, the

city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 20 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of 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 chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 *et seq.*, as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A 12-1750 *et seq.*, as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies. (Ord. 373, Sec. 7; Code 2004)

8-808                   REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Ord 373, Sec. 8; (Code 2004)

8-809                   SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-805 (a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-805(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Ord. 373, Sec. 9; Code 2004)

8-810                   EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party 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. (Ord. 373, Sec. 10 Code 2004)

8-811                   INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and 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. (Ord. 373, Sec. 11; Code 2004)