

CHAPTER VIII: HEALTH AND WELFARE

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ARTICLE 1: PROPERTY MAINTENANCE

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§ 8-101 TITLE.

The regulations in this article shall be known as the Property Maintenance Code of the city.

§ 8-102 SCOPE.

The provisions of this chapter shall apply to all structures and premises within the city and contain the minimum standards for such structures and premises.

§ 8-103 FINDINGS, PURPOSE AND INTENT.

(a) This chapter shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare.

(b) The governing body of the city finds that certain conditions as hereinafter defined cause annoyance, inconvenience or damage to the public with respect to the public's comfort, health, safety, welfare and enjoyment of property. Pursuant to the authority found in K.S.A. 12-1617e, K.S.A. 12-1617f and K.S.A. 12-1617g, it is the purpose and intent of the governing body to define, prohibit and/or eliminate those conditions which are injurious to the public and which constitute a public nuisance. It is further the purpose and intent of the governing body, pursuant to K.S.A. 12-1617e and K.S.A. 12-1617g to set forth and delegate responsibility to the public officer for procedures regarding notice, abatement and prosecution of those individuals who allow property maintenance violations to exist.

(c) It is hereby further declared that the purpose of this chapter is to protect, preserve and promote the physical and mental health and social well-being of the people of the city to prevent and control incidents of communicable diseases, to regulate privately and publicly owned structures for the purpose of maintaining adequate sanitation and public health, to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all structures now in existence or hereafter constructed.

(d) It is hereby further declared that pursuant to the authority found in K.S.A. 17-4759 and otherwise, the purpose of this chapter is to: ensure that the quality of the interior of residential structures is adequate for the protection of public health, safety and general welfare; ensure that there are minimum standards for basic equipment and facilities for light, ventilation, and thermal conditions for safety from fire and accidents, and the use, location and amount of space for human occupancy; ensure an adequate level of maintenance, which involves establishing the responsibilities of owners, operators and occupants of residential structures; and provide for the administration and enforcement thereof.

§ 8-104 SEVERABILITY.

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

§ 8-105 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming units”, “premises” or “structures” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof”.

ACCESSORY STRUCTURE. A detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on or partially on any premises.

AGENT. Any person who has charge, care, control or management of a structure or premises which are let or offered for occupancy.

APPROPRIATE AUTHORITY. The department, division or person who has the responsibility to administer and enforce the applicable code.

APPROVED. Approved by the local or state authority having such administrative authority.

BASEMENT. The lower level of a building located substantially below grade.

CALENDAR YEAR (AS USED HEREIN). That period of time beginning January 1 and ending December 31 of the same year.

CELLAR. A portion of a building located partially 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.

CHIMNEY. A vertical masonry shaft of reinforced concrete or other approved noncombustible, heat resistant material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

COMMERCIAL or INDUSTRIAL. Used or intended to be used primarily for other than residential purposes.

COMMERCIAL STRUCTURE. Any structure or any part thereof, which is used for other than residential purposes and where applicable, the premises on which such structures are situated.

DILAPIDATION, DETERIORATION or DISREPAIR. 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.

DWELLING. Any enclosed space that is wholly or partly used or intended to be used for living or sleeping by human occupants; provided, that temporary housing as defined in this section shall not be regarded as a **DWELLING**.

DWELLING UNIT. 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, sanitation and eating.

EGRESS. A place or means of going out.

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.

EXTERMINATION. The control and elimination of insects, rodents and/or rats by eliminating their harborage places; by removing or making inaccessible materials that may serve as a food source; by poisoning, spraying, fumigating trapping or by any other approved pest elimination methods.

FLUSH TOILET (WATER CLOSET). A water-flushed plumbing fixture designed to receive human waste. This fixture shall have a means of delivering a minimum of 1.6 gallons of water after each use, to thoroughly clean and sanitize the fixture.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GRAFFITI. Any unauthorized writing, inscription, word, figure or design which is marked, etched, scratched, drawn or painted on any structural component of any building, structure or other facility, regardless of the nature of the material used in its application or upon which it is applied.

GUEST. Any person who shares a dwelling unit in a nonpermanent status for not more than 30 days.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas not considered **HABITABLE SPACES**.

HEATED WATER. Water capable of being heated to a temperature of not less than 120°F at the outlet.

HOUSEHOLD. A family and/or one or more unrelated persons, including servants, who share the same dwelling and use some or all of its cooking and eating facilities.

IMMINENT DANGER. A condition that could cause serious or life threatening injury or death at any time.

INFESTATION. The presence within or around a dwelling of any insects, rodents or rats.

INGRESS. A place or means of going in.

INOPERATIVE VEHICLE. Any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a public street or highway due to removal of, damage to or deterioration of, or inoperative condition or absence of any component part, or the lack of an engine, transmission, wheels, tires, doors or windshield or windows necessary for such lawful operation.

INSPECTOR. The designated staff member of the city.

KITCHEN. Any room containing any or all of the following equipment, or any area of a room within three feet of such equipment; sink and/or other device for dishwashing, stove or other device for cooking, refrigerator for cool storage of food (between 32°F and 45°F), cabinets and/or shelves for storage of equipment and utensils, and table or counter for food preparation.

KITCHENETTE. A small kitchen or an alcove containing cooking facilities.

MOTOR VEHICLE. A machine propelled by power other than human power and designed to travel along the ground by use of wheels, treads, runners or slides and which transports persons or property or pulls machinery, and shall include without limitation an automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units or rooming units.

NONRESIDENTIAL STRUCTURES. Any structure or any part thereof, which is used for other than residential purposes, and where applicable, the premises on which such structures are situated.

NOTICE. A written statement issued by the public officer declaring a condition to be substandard.

NUISANCE. Any condition which injures or endangers the comfort, repose, health, safety or welfare of the public; offends decency; is offensive to the senses; unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk,

stream, ditch or drainage; in any way renders another person insecure in life or the use of property; or essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of another.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or actually having possession of, a dwelling unit or a rooming unit, except that in dwelling units a guest will not be considered an occupant.

OWNER. Any person who, alone or jointly or severally with others, shall have:

(1) Legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Charge, care or control of any premises, dwelling or dwelling unit, as legal owner or agent of the legal owner, or as executor, administrator, purchaser under contract, taxpayer, trustee or guardian of the estate of the legal owner. Any such person thus representing the legal owner shall be bound to comply with the provisions of any notice and order and of rules and regulations adopted pursuant thereto, to the same extent as if the person were the **OWNER**.

PERMISSIBLE OCCUPANCY. The maximum number of persons permitted to reside in a dwelling unit or rooming unit.

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.

PLUMBING. And includes all of the following facilities and equipment and facilities and equipment similar thereto: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer or gas lines.

PREMISES. A platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such dwelling, accessory structure or other structure thereon.

PRIVACY. The existence of conditions which will permit a person to carry out an activity commenced without interruption or interference, either by sight or sound, by unwanted persons.

PUC. A purchaser of real estate under an installment land contract.

RAT HARBORAGE. Any place where rats or rodents can live, nest or seek shelter.

REFUSE. Includes garbage and trash, but is not limited to waste matter from the preparation of food, yard trimmings, paper, boxes, wood, glass, crockery and metals.

REFUSE CONTAINER. A container that is impermeable by water or air and that is capable of being serviced without creating unsanitary conditions. Openings into the container such as covers and doors shall be tight-fitting.

RESIDENTIAL STRUCTURES. Any building, dwelling or structure, or part thereof, used and occupied or intended to be used and occupied for human habitation, and including any appurtenances belonging thereto or usually enjoyed therewith.

ROOMING HOUSE. Any dwelling or that part of any dwelling containing one or more rooming units.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking purposes.

SAFETY. The condition of being free from danger and hazards which may cause accidents or disease.

SPACE HEATER. A self-contained heating appliance of either the circulating type or the radiant type and intended primarily to heat only one room.

STRUCTURES. Anything constructed or erected which requires location on the ground or attached to something having a location on the ground including retaining walls.

SUPPLIED. Paid for, furnished by, provided by, or under the control of the owner, occupant, PUC or agent.

TEMPORARY HOUSING. Any tent, trailer, mobile home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system on the same premises for more than 30 consecutive days.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TRASH. Solid wastes, excluding ashes, consisting of either:

- (1) Combustible wastes such as paper, cardboard, plastic containers, yard clippings and wood;
- or
- (2) Noncombustible wastes such as tin cans, glass and crockery.

UNSAFE STRUCTURE. One that is unfit for human use or habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light, sanitary facilities

or other conditions which render such structures unsafe, unsanitary, or otherwise injurious to the welfare of the residents of the city.

VEGETATION. Means, but is not limited to, weeds, woody vines, brush, grass and uncultivated plants.

WEATHERED. Deterioration caused by exposure to the elements.

WEEDS. The existence of excessive accumulations or untended growth of weeds, grasses, undergrowth and uncultivated plants which threatens or endangers the public health, safety or welfare or may reasonably cause disease, harbor vermin and insects, or which adversely affects and impairs the economic welfare of the adjacent property is hereby prohibited.

YARD. The area of premises not occupied by any structure.

§ 8-106 AUTHORITY TO ENFORCE.

The public officer and/or his or her designee, hereinafter referred to as the public officer, shall be charged with the administration and enforcement of this chapter.

§ 8-107 AUTHORIZATION TO ENTER PREMISES.

To the extent authorized by law, the public officer may enter on premises at reasonable times to make inspections and to determine whether a violation exists. If upon investigation the public officer determines that a violation exists, proper notice as provided in this chapter shall be given to the owner and occupant, if applicable, of the premises on which the violation is located. The public officer shall proceed, pursuant to the terms of this article, to cause the violation to be corrected, abated or suppressed.

§ 8-108 EMERGENCY MEASURES; NOTICE OF LESS THAN FIVE DAYS.

(a) Whenever in the judgment of the public officer and/or Police Chief or their designees, an emergency exists which poses an immediate hazard requiring immediate action to protect public health, safety or welfare, an order may be issued, without written notice or hearing, directing the owner, occupant, PUC or agent to take such action as is appropriate to correct or abate the emergency.

(b) The public officer shall attempt to contact the owner, occupant, PUC or agent and seek their immediate action to abate the emergency. If such attempt is unsuccessful, the public officer may act to correct or abate the emergency.

§ 8-109 CONFERENCE TO DISCUSS COMPLAINT.

The owner, occupant, PUC or taxpayer/agent shall be granted a conference with the public officer on the matter upon request, as soon as practicable, but such conference shall in no case stay the abatement or correction of a violation.

§ 8-110 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises:

(a) Upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located; or

(b) If he or she is informed that a nuisance may exist by the Chief of Police. The public officer may also make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

ARTICLE 2: NUISANCES

Section

8-201	Nuisances unlawful; defined
8-202	Public officer
8-203	Complaints; inquiry and inspection
8-204	Right of entry
8-205	Order of violation
8-206	Same; contents
8-207	Failure to comply; penalty
8-208	Abatement
8-209	Hearing
8-210	Costs assessed

§ 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 that 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 on the 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; and

(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. 21-6204)

§ 8-202 PUBLIC OFFICER.

The Mayor shall appoint, and the Council shall approve a public officer to be charged with the administration and enforcement of this article.

§ 8-203 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located, or is informed that a nuisance may exist by the Board of Health, Chief of Police or the Fire Chief. The public officer may make such inquiry and inspection when he or she observes conditions that appear to constitute a nuisance. Upon making any inquiry and inspection, the public officer shall make a written report of findings.

§ 8-204 RIGHT OF ENTRY.

The public officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for the purpose of making inquiry and inspection to determine if a nuisance exists.

§ 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 public officer to be in violation of § 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)

§ 8-206 SAME; CONTENTS.

(a) The order shall state the condition(s) that is (are) in violation of § 8-201. The order shall also inform the person, corporation, partnership or association that:

(1) He, she or they shall have ten days from the receipt of the order to abate the condition(s) in violation of § 8-201; provided, however, that the governing body shall grant one or more extensions of the ten-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 § 8-201; or

(2) He, she or they have ten days from the receipt of the order, plus any additional time granted under division (a)(1) above, to request a hearing before the governing body or its designated representative of the matter as provided by § 8-209.

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

(K.S.A. 12-1617e)

§ 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 public officer 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 § 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 during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

§ 8-208 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-207, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to § 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 § 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten 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 § 8-210.

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

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested; or

(3) 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 public officer 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.

(c) 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.

§ 8-209 HEARING.

If a hearing is requested within the ten-day period as provided in § 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 public officer. 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 § 8-208.

§ 8-210 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-208, 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.
(K.S.A. 12-1617e)

ARTICLE 2A: ENVIRONMENTAL CODE

Section

- 8-2A01 Title
- 8-2A02 Legislative finding of fact
- 8-2A03 Purpose
- 8-2A04 Rules of construction
- 8-2A05 Definitions
- 8-2A06 Public officer
- 8-2A07 Enforcement standards
- 8-2A08 Unlawful acts
- 8-2A09 Order of violation
- 8-2A10 Penalty
- 8-2A11 Abatement
- 8-2A12 Hearing
- 8-2A13 Appeals
- 8-2A14 Costs assessed
- 8-2A15 Construction

§ 8-2A01 TITLE.

This article shall be known as the “Environmental Code”.

§ 8-2A02 LEGISLATIVE FINDING OF FACT.

The governing body has found that there exists 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.

§ 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.

§ 8-2A04 RULES OF CONSTRUCTION.

For the purpose of this article, the following rules of construction shall apply.

(a) *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”.

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

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

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

(e) *Shall.* The word shall is mandatory and not permissive.

§ 8-2A05 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. Any motor vehicle that 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 ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.

ACCESSORY STRUCTURE. A secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns or outbuildings.

COMMERCIAL or INDUSTRIAL. Used or intended to be used primarily for other than residential purposes.

DILAPIDATION, DETERIORATION or DISREPAIR. 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.

EXTERIOR. Those parts of a structure that 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.

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.

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.

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.

REFUSE. Garbage and trash.

RESIDENTIAL. Used or intended to be used primarily for human habitation.

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.

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.

WEATHERED. Deterioration caused by exposure to the elements.

YARD. The area of the premises not occupied by any structure.

§ 8-2A06 PUBLIC OFFICER.

The Mayor shall appoint, and the Council shall approve a public officer to be charged with the administration and enforcement of this article.

§ 8-2A07 ENFORCEMENT STANDARDS.

(a) No person shall be found in violation of this article unless the public officer, 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.

(b) 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 § 8-2A08, but shall not include conditions that are not readily visible from any public place or from any surrounding private property.

§ 8-2A08 UNLAWFUL ACTS.

(a) It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions that are injurious to the health, safety or general welfare of the residents of the community or conditions that are detrimental to adjoining property, the neighborhood or the city.

(b) For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(1) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

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

(B) Abandoned motor vehicles;

(C) Furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers or other such items of personal property; or

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

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

(A) Exteriors of any structure;

(B) Exteriors of any accessory structure; or

(C) Fences, walls or retaining walls.

§ 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 public officer to be in violation of § 8-2A08 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. The order shall state:

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

(2) That the person in violation shall have:

(A) Ten days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or

(B) Forty-five days from the receipt of the order to alleviate the exterior conditions (structure) violation; or

(C) Ten days from the receipt of the order, plus any additional time granted under division (c) below, to request, as provided in § 8-2A12 a hearing before the governing body or its designated representative on the matter.

(c) Provided, however, that the governing body shall grant one or more extensions to the time periods stated in divisions (b)(2)(A) and (b)(2)(B) above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions that 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 § 8-2A10 and/or abatement of the condition by the city according to § 8-2A11 with the costs assessed against the property under § 8-2A14.

(K.S.A. 12-1617e)

§ 8-2A10 PENALTY.

The public officer may file a complaint in the Municipal Court against any person found to be in violation of § 8-2A08, provided however, that such person shall first have been sent an order of violation as provided in § 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 § 8-2A09. Upon such complaint in the Municipal Court, any person found to be in violation of § 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.

§ 8-2A11 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to § 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 § 8-2A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten 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 § 8-2A14.

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

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested; or

(3) 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 public officer 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.

(c) 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.

§ 8-2A12 HEARING.

If a hearing is requested within the ten-day period as provided in § 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 public officer. 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 § 8-2A11.

§ 8-2A13 APPEALS.

Any person affected by any determination of the governing body under §§ 8-2A11 and 8-2A12 may appeal such determination in the manner provided by K.S.A. 60-2101.

§ 8-2A14 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 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 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.

§ 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 State Constitution, by any other law or by ordinance.

ARTICLE 3: UNSAFE STRUCTURES

Section

- 8-301 Purpose
- 8-302 Definitions
- 8-303 Enforcing officer; duties
- 8-304 Procedure; petition
- 8-305 Same; notice
- 8-306 Same; publication
- 8-307 Same; hearing, order
- 8-308 Duty of owner
- 8-309 Same; failure to comply
- 8-310 Same; make site safe
- 8-311 Assessment of costs
- 8-312 Immediate hazard
- 8-313 Appeals from order
- 8-314 Scope of article

§ 8-301 PURPOSE.

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

(K.S.A. 12-1751)

§ 8-302 DEFINITIONS.

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

ENFORCING OFFICER. The Public Officer or his or her authorized representative.

STRUCTURE. Any building, wall or other structure.

(K.S.A. 12-1750)

§ 8-303 ENFORCING OFFICER; DUTIES.

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

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

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

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

(d) Receive petitions as provided in this article.

§ 8-304 PROCEDURE; PETITION.

Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. Such findings shall be in writing and describe the property and where it is located.

(K.S.A. 12-1752)

§ 8-305 SAME; NOTICE.

The governing body, upon receiving a report as provided in § 8-304, shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

(K.S.A. 12-1752)

§ 8-306 SAME; PUBLICATION.

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

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

(K.S.A. 12-1752)

§ 8-307 SAME; HEARING, ORDER.

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

(K.S.A. 12-1753)

§ 8-308 DUTY OF OWNER.

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

§ 8-309 SAME; FAILURE TO COMPLY.

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

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

(K.S.A. 12-1755)

§ 8-310 SAME; MAKE SITE SAFE.

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

(K.S.A. 12-1754)

§ 8-311 ASSESSMENT OF COSTS.

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

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

(c) (a) If the costs remain unpaid after 30 days following receipt of notice, the City Clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe.

(b) Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

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

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

(K.S.A. 12-1755)

§ 8-312 IMMEDIATE HAZARD.

(a) When, in the opinion of the governing body, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay.

(b) Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in § 8-311.

(K.S.A. 12-1756)

§ 8-313 APPEALS FROM ORDER.

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

§ 8-314 SCOPE OF ARTICLE.

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

ARTICLE 4: JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

Section

- 8-401 Findings of governing body
- 8-402 Definitions
- 8-403 Nuisances unlawful; defined; exceptions
- 8-404 Public officer
- 8-405 Complaints; inquiry and inspection
- 8-406 Right of entry
- 8-407 Order of violation
- 8-408 Same; contents
- 8-409 Failure to comply; penalty
- 8-410 Abatement
- 8-411 Disposition of vehicle; recovery of vehicle
- 8-412 Hearing
- 8-413 Costs assessed

§ 8-401 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 an area in which they are located; and
- (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(Ord. 1823, passed 7-10-2000)

§ 8-402 DEFINITIONS.

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

INOPERABLE. 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.

VEHICLE. 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.
(Ord. 1823, passed 7-10-2000)

§ 8-403 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; and

(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 to children. However, nothing in the division (b)(3) shall be construed to authorize the maintenance of a public nuisance.

(Ord. 1823, passed 7-10-2000)

§ 8-404 PUBLIC OFFICER.

The Mayor, with the consent of the City Council shall designate a public officer to be charged with the administration and enforcement of this article.

(Ord. 1823, passed 7-10-2000)

§ 8-405 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Board of Health, Chief of Police or the Fire Chief. The public officer 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 public officer shall make a written report of findings.

(Ord. 1823, passed 7-10-2000)

§ 8-406 RIGHT OF ENTRY.

The public officer 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.

(Ord. 1823, passed 7-10-2000)

§ 8-407 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 public officer to be in violation of § 8-403 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) (1) 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.

(2) 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)

§ 8-408 SAME; CONTENTS.

The order shall state the condition(s) which is (are) in violation of § 8-403. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have ten days from receipt of the order to abate the condition(s) in violation of 8-403;

(b) He, she or they have ten days from receipt of the order to request a hearing before the governing body or its designated representative of the matter as provided by § 8-412; and

(c) Failure to abate the condition(s) or request a hearing within the time allowed may result in prosecution as provided by § 8-409 and/or abatement of the condition(s) by the city as provided by § 8-410.

(Ord. 1823, passed 7-10-2000)

§ 8-409 FAILURE TO COMPLY; PENALTY.

Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the Municipal Court of the city against such person and upon conviction of any violation of provisions of § 8-403, 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.

(Ord. 1823, passed 7-10-2000)

§ 8-410 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-409, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been sent pursuant to § 8-407 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in § 8-408, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten days after passage of the resolution.

(b) (1) 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 § 8-413.

(2) 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 public officer 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.

(3) 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.

§ 8-411 DISPOSITION 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. 8-1102, and amendments thereto.

(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.

§ 8-412 HEARING.

(a) If a hearing is requested within the ten-day period as provided in § 8-408, 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 public officer.

(b) 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.

(c) 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 § 8-410.

(Ord. 1823, passed 7-10-2000)

§ 8-413 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-410, 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.

ARTICLE 5: WEEDS

Section

- 8-501 Weeds to be removed
- 8-502 Definitions
- 8-503 Public officer; notice to remove
- 8-504 Abatement; assessment of costs
- 8-505 Right of entry
- 8-506 Unlawful interference
- 8-507 Noxious weeds

§ 8-501 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. 1739, passed 3-16-1998)

§ 8-502 DEFINITIONS.

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

CALENDAR YEAR. That period of time beginning January 1 and ending December 31 of the same year.

WEEDS. Any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds which bear or may bear seeds of a downy or wingy nature;

(4) 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; and

(5) Weeds and grasses on or about residential 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 1739, passed - -)

§ 8-503 PUBLIC OFFICER; NOTICE TO REMOVE.

(a) The governing body shall designate a public officer to be charged with the administration and enforcement of this article. The public officer 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) The owner, occupant or agent in charge of the property is in violation of the city weed control law;

(2) The owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within ten days of the receipt of the notice;

(3) The owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within ten days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, ten days after notice has been published by the City Clerk in the official city newspaper;

(4) 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) 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 public officer 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 division (c), 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. 1739, passed 3-16-1998)

§ 8-504 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 in § 8-503, the public officer 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 in this section.

(c) 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 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. 1739, passed 3-16-1998)

§ 8-505 RIGHT OF ENTRY.

The public officer and the public officer'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. 1739, passed 3-16-1998)

§ 8-506 UNLAWFUL INTERFERENCE.

It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer'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. 1739, passed 3-16-1998)

§ 8-507 NOXIOUS WEEDS.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of K.S.A. Ch. 2, Art. 13, 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 repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans L.*), Johnson grass (*Sorghum halepense*) and sericea lespedeza (*Lespedeza cuneata*). (K.S.A. 2-1314) (Ord. 1739, passed 3-16-1998)

ARTICLE 6: MINIMUM HOUSING CODE

Section

- 8-601 Title
- 8-602 General
- 8-603 Declaration of policy
- 8-604 Definitions
- 8-605 Duty of occupant or owner of occupied or unoccupied building and its premises or vacant premises
- 8-606 Regulations for the use and occupancy of dwellings
- 8-607 Maintenance and repair; dwellings
- 8-608 Designation of unfit dwellings
- 8-609 Designation of blighted premises (residential and nonresidential)
- 8-610 Designation of blighted buildings and premises (nonresidential)
- 8-611 Inspection of buildings, structures and premises
- 8-612 Notice of violations; procedures
- 8-613 Public officer; authority
- 8-614 Governing body; authority
- 8-615 Order to correct and/or repair, remove or demolish
- 8-616 Demolition by public officer; procedure and costs
- 8-617 Conflict of laws; effect or partial invalidity
- 8-618 Governing body; appeals
- 8-619 Right of petition

§ 8-601 TITLE.

This article shall be known as the “Minimum Standard for Housing and Premises Code”, and will be referred to herein as “this code”.

§ 8-602 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 nonresidential, shall conform to the requirements of this code.

§ 8-603 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, public health and general appearance; protect the safety of the people; and promote the general welfare by legislation that 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 nonresidential structures;
- (c) Determines the responsibilities of owners, operators and occupants; and
- (d) Provides for the administration and enforcement thereof.

§ 8-604 DEFINITIONS.

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

BASEMENT. A portion of a building located partially underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

CELLAR. A portion of a building located partially 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.

DWELLING. Any building that is wholly or partially 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.***

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used for living, sleeping, cooking and eating.

HABITABLE DWELLING. Any structure or part thereof that shall be used as a home or place of abode by one or more persons.

HABITABLE ROOM. 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.

INFESTATION. The presence, within or around a dwelling, of insects, rodents or other pests.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person, over one year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care, owns or has control of a premises or of a building or structure or part thereof, in which dwelling units or rooming units are let.

OWNER. 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.

PERSON. Includes any individual, firm, corporation, association or partnership.

PLUMBING. Includes 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 closets; 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.

PREMISES. Any lot or land area, either residential or nonresidential, not covered by a structure and which is subject to a city tax in part or in whole.

PUBLIC OFFICER. The person appointed by the city pursuant to § 8-202.

ROOMING HOUSE. 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.

ROOMING UNIT. 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.

REFUSE. For the purpose of this article, **REFUSE** shall include garbage and trash.

(1) **GARBAGE.** 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.

STRUCTURE. Anything constructed or erected on the ground or attached to something having a location on the ground.

SUPPLIED. Paid for, furnished or provided by or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter that is designed to be transportable and that 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.

WORDS, MEANINGS. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof”.

§ 8-605 DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES.

(a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises, or vacant premises, 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 §§ 8-608 and 8-609.

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

(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.

§ 8-606 REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.

(a) 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, that does not comply with the following requirements.

(b) The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit.

(1) *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.

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

(3) *Basement dwelling units.* The use of basements or cellars for dwelling units is prohibited unless they comply with division (b)(18) below 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 public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

(4) *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.

(5) *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. 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. 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.

(6) *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.

(7) *Entrances.*

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

(B) 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.

(8) *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 division (b)(8).

(9) *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.

(10) *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°F 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.

(11) *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.

(12) *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.

(13) *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.

(14) *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.

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

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

(17) *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 that affords privacy.

(18) *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 5% of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of openable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system 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.

(19) *Water heating facilities.* Every dwelling shall have supplied water heating facilities that 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.

(20) *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.

§ 8-607 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.

§ 8-608 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) *Existence of conditions.* The public officer 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 that 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) *Conditions generally.* Such conditions may include the following without limitation:

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

(2) Lack of:

(A) Adequate ventilation;

(B) Light;

(C) Cleanliness; and

(D) 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; and

(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 public officer, shall be vacated within a reasonable time as so ordered.

(d) *Notice of violation.* Procedures as outlined in § 8-612 are applicable hereto.

(e) *Compliance required before re-occupancy.* No dwelling or dwelling unit that 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 public officer.

(1) The public officer shall remove such 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 that has been condemned as unfit for human habitation and placarded as such, except the

public officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code.

§ 8-609 DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NONRESIDENTIAL).

The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

(a) *Public officer determinations.* The public officer may determine, or five citizens may petition in writing, that if the appearance of a premises 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; and

(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 § 8-612 are applicable hereto.

§ 8-610 DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NONRESIDENTIAL).

(a) *Certain blighted conditions.* Certain blighted conditions covered in §§ 8-608 and 8-609 concerning buildings and premises that are on the tax roll of the city are applicable to all nonresidential buildings and premises.

(b) *Notice of violation.* Procedures of notification shall follow those prescribed in § 8-612.

§ 8-611 INSPECTION OF BUILDINGS, STRUCTURES AND PREMISES.

(a) For the purpose of determining compliance with the provisions of this code, the public officer 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 public officer is not limited by the conditions in division (a) above where new construction or vacant premises are involved and may make such inspections at any appropriate time.

(c) The owner, operator and occupant of every dwelling, dwelling unit and rooming unit shall give the public officer, 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.

§ 8-612 NOTICE OF VIOLATIONS; PROCEDURES.

(a) *Informal discussion.* Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public officer 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 public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary; and

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

§ 8-613 PUBLIC OFFICER; 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 public officer 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 that regulate or set standards affecting buildings and premises.

§ 8-614 GOVERNING BODY; AUTHORITY.

The governing body is hereby authorized:

(a) To informally review all alleged violations as provided in § 8-612(a) prior to notification prescribed in § 8-612(b);

(b) To take action as prescribed in § 8-612(b);

(c) To hear appeals if there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in § 8-618; and

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

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

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

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

§ 8-615 ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH.

At the time of the placarding and order to vacate specified by § 8-608(c) hereof, the public officer 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 § 8-612.

§ 8-616 DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to comply with the order under § 8-615 for the alteration or improvement of such structure, the public officer, 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 § 8-609.

(b) The cost of demolition by a public officer 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 fees, 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 was 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 public officer, 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 or 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.

§ 8-617 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 that 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 that 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.

§ 8-618 GOVERNING BODY; APPEALS.

(a) Any person, firm or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within ten days after receiving notice of the decision from the public officer, as provided in § 8-612(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 ten days before the hearing.

(e) Except where an immediate hazard exists as described in § 4-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in division (a) above shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.

§ 8-619 RIGHT OF PETITION.

After exhausting the remedy provided in § 8-618, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter may, within 30 days from the date that the order became final, petition the District Court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order.

ARTICLE 7: RODENT CONTROL

Section

- 8-701 Definitions
- 8-702 Building maintenance
- 8-703 Notice to rat-stop; when city to do work
- 8-704 Failure to comply
- 8-705 Replace rat-stoppage
- 8-706 Notice to eradicate rats
- 8-707 Conditions conducive to harborage of rats
- 8-708 Inspections

§ 8-701 DEFINITIONS.

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

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.

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.

OWNER. The owner of any building or structure, whether individual, firm, partnership or corporation.

RAT HARBORAGE. Any condition that provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.

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.

§ 8-702 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.

§ 8-703 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.

§ 8-704 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.

§ 8-705 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.

§ 8-706 NOTICE TO ERADICATE RATS.

(a) Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped 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 rats.

(b) 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.

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

§ 8-707 CONDITIONS CONDUCTIVE 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 that 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 to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.

§ 8-708 INSPECTIONS.

The Public Officer 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.

ARTICLE 8: INSURANCE PROCEEDS FUND

Section

- 8-801 Scope and application
- 8-802 Lien created
- 8-803 Same; encumbrances
- 8-804 Same; pro rata basis
- 8-805 Procedure
- 8-806 Fund created; deposit of monies
- 8-807 Building Inspector; investigation, removal of structure
- 8-808 Removal of structure; excess monies
- 8-809 Same; disposition of funds
- 8-810 Effect upon insurance policies
- 8-811 Insurers; liability

§ 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, 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.

§ 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, 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.

§ 8-803 SAME; ENCUMBRANCES.

Prior to final settlement on any claim covered by § 8-802, the insurer or insurers shall contact the County Treasurer, Shawnee 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 County Treasurer, Shawnee County, Kansas.

§ 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.

§ 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% 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 division (a) above, 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.

§ 8-806 FUND CREATED; DEPOSIT OF MONIES.

The City Treasurer is hereby authorized and shall create a fund to be known as the Insurance Proceeds Fund. All monies received by the City Treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account.

§ 8-807 BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of monies 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 30 days of the receipt of said monies, 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 30 days established by division (b) above, 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 45 days after receipt of the monies 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 monies 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 45 days of the receipt of the monies from the insurance company or companies.

§ 8-808 REMOVAL OF STRUCTURE; EXCESS MONIES.

If the Chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all monies 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.

§ 8-809 SAME; DISPOSITION OF FUNDS.

If the Chief Building Inspector, with regard to a building or other structure damaged determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of § 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 § 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.

§ 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.

§ 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.

ARTICLE 9: SWIMMING POOLS

Section

8-901	Definitions
8-902	Permit required
8-903	Application for permit
8-904	Fees
8-905	Enclosure of pools
8-906	Same; location

§ 8-901 DEFINITIONS.

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

PERMANENT SWIMMING POOL. Any permanently constructed structure in or on the ground intended for swimming or wading, having a depth of two feet or more at any point.

PORTABLE SWIMMING POOL. Any manufactured device capable of being stored, which is used or intended for swimming or wading, have a depth of two feet or more at any point.

PRIVATE SWIMMING POOL. The pool it is not open to the public, that it is not publicly owned or not otherwise regulated by the state, either by statute or by rules and regulations by one of its administrative bodies.

(b) Hot tubs, spas and the like shall not be swimming pools for purposes of those definitions as long as equipped with attachable covers that completely cover such pools when not in use.
(Ord. 1984, passed 8-1-2005)

§ 8-902 PERMIT REQUIRED.

It shall be unlawful to construct or establish a private swimming pool either in or upon the ground without first having obtained a permit therefore from the city. The permit shall be valid for so long as no material modification is made to such swimming pool, including location, or the required enclosure.
(Ord. 1984, passed 3-16-1998)

§ 8-903 APPLICATION FOR PERMIT.

Application for construction of a private swimming pool shall be made to the City Clerk by the owner of the property or the contractor. The application shall be accompanied by plans, specifications and a plot plan of the property. The plot plan shall allow the accurate location of the proposed swimming pool in the property. The application shall be accompanied by a permit application fee of \$20 for permanent swimming pools and \$10 for portable swimming pools.

(Ord. 1984, passed 3-16-1998)

§ 8-904 FEES.

No building permit required by this article shall be issued until a fee of \$0.05 per square foot of the proposed pool to be erected, constructed or structurally altered shall have been paid.

(Ord. 1967, passed 2-7-2005)

§ 8-905 ENCLOSURE OF POOLS.

Every private permanent swimming pool shall be completely enclosed by a fence or wall not less than five feet in height. Every private portable swimming pool shall be completely enclosed by a fence or wall not less than 42 inches in height. A dwelling structure or accessory building wall may serve as part or all of required enclosure. The design of such fence or wall may be solid or shall be designed so that no portion of the fence or wall permit the passing of a six-inch sphere through the fence or wall. In addition the fence or wall shall not be designed with features which could be used for climbing over said fence or wall. Maximum mesh size for chain link fences shall be a two and one-fourth-inch square. Gates shall have a latch or locking mechanism.

(Ord. 1967, passed 2-7-2005)

§ 8-906 SAME; LOCATION.

Private swimming pools shall be located within required yard set back lines and shall not be located underneath electrical lines.

(Ord. 1967, passed 2-7-2005)

ARTICLE 10: NOISE

Section

8-1001 Certain noises prohibited

§ 8-1001 CERTAIN NOISES PROHIBITED.

(a) It shall be unlawful for any person(s) using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as disturbs the peace, quiet and comfort of the neighboring inhabitants or general public at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners. The operation of any such set, instrument, phonograph, machine or device, between the hours of midnight and 7:00 a.m. in such manner as to be plainly audible at a distance of 50 feet from the building or structure or 25 feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section.

(b) It shall be unlawful for any person(s) using, operating or permitting to be operated, or the owner thereof to allow to be operated any ATV, moped, motorcycle or other motor vehicle to operate such a device upon property within the city limits in such a manner as disturbs the peace, quiet and comfort of the neighboring inhabitants or general public at any time between the hours of 10:00 p.m. and 7:00 a.m. It shall be considered prima facie evidence that the person is disturbing the peace if the vehicle is plainly audible at a distance of 50 feet from the vehicle.

(c) Upon conviction of a violation of this section, the court shall impose a fine of not less than \$100, nor more than \$499. Upon a second conviction, within a three-year period, the court shall impose a fine of not less than \$200, nor more than \$499.

(d) Person(s) shall mean any individual and/or the parents or custodian of any individual under the age of 18 who is living with parents or custodian.
(Ord. 2523, passed 3-21-2022)

