

## **CHAPTER VIII. HEALTH AND WELFARE**

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### **ARTICLE 1. HEALTH NUISANCES**

- 8-101.        **NUISANCES UNLAWFUL; DEFINED.** It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
  - (b) All dead animals not removed within 24 hours after death;
  - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
  - (d) All stagnant ponds or pools of water;
  - (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
  - (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited 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;
  - (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
- (K.S.A. 21-4106:4107; Code 1988)
- 8-102.        **PUBLIC OFFICER.** The code enforcement officer, or in his or her absence some other designee of the mayor, shall be charged with the administration and enforcement of this ordinance. (Code 2015)
- 8-103.        **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. (Code 1988)

8-104.       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. (Code 1988)

8-105.       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 section 8-101 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2015)

8-106.       SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-101. The order shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from the receipt of the order to abate the condition(s) in violation of section 8-101; provided, however, that the governing body [or its designee named in section 8-105] shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-101; or,

(b) He, she or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by section 8-109;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-107 and/or abatement of the condition(s) by the city as provided by section 8-108. (Code 2015)

8-107.       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 section 8-101, be fined in an amount not

to exceed \$1,000 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2015)

8-108. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-107, 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 section 8-105 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-106, 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 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-110. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the 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.

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

(Code 2015)

8-109. HEARING. If a hearing is requested within the 10 day period as provided in section 8-106, 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 section 8-108. (Code 2015)

8-110.        **COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2015)

## ARTICLE 1A. ENVIRONMENTAL CODE

- 8-1A01. TITLE. This article shall be known as the "Environmental Code." (Code 2015)
- 8-1A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 2015)
- 8-1A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2015)
- 8-1A04. 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.
- (Code 2015)
- 8-1A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:
- (a) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.
  - (b) 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.
  - (c) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.
  - (d) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) Refuse - garbage and trash.

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

(k) 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.

(l) 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.

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

(n) Yard - the area of the premises not occupied by any structure.

(Code 2015)

8-1A06. PUBLIC OFFICER. The mayor shall designate a public officer to be charged with the administration and enforcement of this article.  
(Code 2015)

8-1A07. ENFORCEMENT STANDARDS. 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. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2015)

8-1A08. UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

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

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

(2) abandoned motor vehicles; or

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

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

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

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 2015)

8-1A09.

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 section 8-1A09 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

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

(2) That the person in violation shall have:

(A) 10 days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or;

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

(C) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in section 8-1A12 a hearing before the governing body or its designated representative on the matter; and;

(c) Provided, however, that the governing body [or its designee named herein] shall grant one or more extensions to the time periods stated in subsections (2) and (3), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-1A10 and/or abatement of the condition by the city according to section 8-1A11 with the costs assessed against the property under section 8-1A14.

(K.S.A. 12-1617e; Code 2015)

8-1A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-1A08, provided however, that such person shall first have been sent a notice as provided in section 8-1A09 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-1A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-1A08 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2015)

8-1A11. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-1A10, 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 section 8-1A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-1A09, 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 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-1A14.

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

- (a) Personal service upon the person in violation;
- (b) Certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the 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.

- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2015)

8-1A12. HEARING. If a hearing is requested within the 10 day period as provided in section 8-1A09 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 section 8-1A11. (Code 2015)

8-1A13. APPEALS. Any person affected by any determination of the governing body under sections 8-1A11:1A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2015)

8-1A14. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-1A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2015)

8-1A15. CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2015)

## ARTICLE 2. WEEDS

- 8-201. 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. 10-8; Code 2015)
- 8-202. DEFINITIONS. Weeds as used herein, means any of the following:
- (a) Brush and woody vines shall be classified as weeds;
  - (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
  - (c) Weeds which bear or may bear seeds of a downy or wingy nature.
  - (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
  - (e) Weeds and grasses on or about 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.10-8; Code 2015)
- 8-203. CODE ENFORCEMENT OFFICER; NOTICE TO REMOVE.
- (a) The Mayor shall designate the code enforcement officer to be charged with the administration and enforcement of this article. The code enforcement 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) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;
    - (2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;
    - (3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper;
    - (4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;
    - (5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

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

(7) that the code enforcement 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 subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this ordinance. (Ord. 10-8; Code 2015)

8-204. ABATEMENT; ASSESSMENT OF COSTS. (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified Section 8-203, the code enforcement 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 by 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 the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f; Ord. 10-8; Code 2015)

8-205. RIGHT OF ENTRY. The code enforcement officer, and the code enforcement 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 ordinance. (Ord. 10-8; Code 2015)

8-206. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the code enforcement officer or the code enforcement 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 an ordinance violation. (Ord. 10-8; Code 2015)

8-207. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*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; Code 2015)

8-208. **MOWING SERVICE FEE.** The fee for the first instance in a calendar year when mowing service is performed or contracted by the city of Galena to enforce City Code Sections 8-201 through 8-207 at a property location shall be as follows: The city shall assess for such mowing services as described above a fee of the higher of twice the contracted amount for mowing services, or \$50, for each 2500 square feet unit upon any property in which the city causes to be performed mowing in order to enforce City Code Sections 8-201 through 8-207. Any property mowed at a particular address that is 2500 square feet or less shall be billed by the city to the owner at one unit price. Any property with dimensions of more than 2500 square feet and not greater than 5000 square feet shall be billed by the city to the owner for two units. Every mowed additional unit of property in excess of 5000 feet square at a particular address shall be billed by the city at the above unit price. The fee for the second or subsequent instance in a calendar year of mowing at a property location shall be twice the above-stated amount.  
(Ord. 10-13; Code 2015)

8-209. **UNIT MEASUREMENT METHOD.** Measurements shall be determined by dimensions recorded in the Cherokee County Appraiser's Office. Structures shall not be excluded in determining the square feet. In the event the square footage of a property, or the structures(s) thereon, is not calculated in the records of Cherokee County, then the city may utilize any resource it may choose, to determine the square footage. The city's determination thereof shall be conclusive. In determining the measurements of a property location, the measurements shall not be combined of property that is separated by a street, alley, railroad, and property in which the owner of the mowed property does not own. (Ord. 10-13; Code 2015)

8-210. **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 Section 8-201, be fined in an amount not to exceed one thousand \$1,000 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. 13-10; Code 2015)

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

- 8-301. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:
- (a) Serves as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
  - (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
  - (c) Are a ready source of fire and explosion;
  - (d) Encourage pilfering and theft;
  - (e) Constitute a blighting influence upon the area in which they are located;
  - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
- (Code 1998)
- 8-302. DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:
- (a) Inoperable - means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
  - (b) Vehicle - means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- (Code 1998)
- 8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.
- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
    - (1) Absence of a current registration plate upon the vehicle;
    - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
    - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
  - (b) The provisions of this article shall not apply to:
    - (1) Any motor vehicle which is enclosed in a garage or other building;
    - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
    - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.
- (Code 1998)

- 8-304. PUBLIC OFFICER. The code enforcement officer, or in his or her absence some other designee of the mayor, shall be charged with the administration and enforcement of this ordinance. (Code 2015)
- 8-305. 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. (Code 1998)
- 8-306. 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. (Code 1998)
- 8-307. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the code enforcement officer to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2015)
- 8-308. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-303. The order shall also inform the person, corporation, partnership or association that
- (a) He, she or they shall have 10 days from receipt of the order to abate the condition(s) in violation of section 8-303; or
- (b) He, she or they have 10 days from receipt of the order to request a hearing before the governing body or its designated representative of the matter as provided by section 8-312;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310. (Code 2015)

8-309. **FAILURE TO COMPLY; PENALTY.** Should the person fail to comply with the notice to abate the nuisance or request a hearing, the code enforcement officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$1,000 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.  
(Code 2015)

8-310. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-309, the code enforcement 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 section 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-308, the code enforcement officer may present a resolution to the governing body for adoption authorizing the code enforcement officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

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

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the code enforcement 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.

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

(Code 2015)

8-311. **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. Supp. 8-1102, as amended.

- (b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle. (Code 2015)

- 8-312.       **HEARING.** If a hearing is requested within the 10 day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the code enforcement 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 matter provided in section 8-310. (Code 1998)
- 8-313.       **COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2015)



#### ARTICLE 4. FAIR HOUSING

- 8-401. POLICY. It is the policy of the city to provide, within constitutional limitations and the laws of the State of Kansas, fair housing opportunity throughout the city. (Ord. 87-15, Sec. 1; Code 1988)
- 8-402. DEFINITIONS.
- (a) Fair Housing Opportunity - in this context means the absence of discriminatory housing activity and unlawful practice as delineated in sections 8-403:406 of this article.
  - (b) Dwelling - means any building, structure, or portion thereof, which is occupied as, or designed or intended for any occupancy as, a residence by one or more families, and shall by implication include any vacant land offered for sale or lease for the construction or location thereon of any building, structure or portion thereof.
  - (c) Rent - includes any lease, sublease, the letting of property, and any other activity which grants for a consideration the right to occupy premises owned by another. (Ord. 87-15, Sec. 2; Code 1988)
- 8-403. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING. Except as exempted elsewhere in this article, it shall be unlawful:
- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.
  - (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion or national origin.
  - (c) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, which indicates any preference, limitation, or discrimination based on race, color, religion or national origin in the sale or rental of a dwelling.
  - (d) To represent to any person that any dwelling is not available for inspection, sale, or rental, when, in fact, the dwelling is available because of race, color, religion, or national origin of the person involved.
  - (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling through use of representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion or national origin. (Ord. 87-15, Sec. 3; Code 1988)
- 8-404. DISCRIMINATION IN THE FINANCING OF HOUSING. It shall be unlawful for any lending association, insurance company or other corporation, or association, whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to any person for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against the person in the fixing of the amount, interest rate, duration, or other terms or conditions of the loan or other financial assistance because of the race, color, religion, or national origin of the person or persons associated with him or her. (Ord. 87-15, Sec. 4; Code 1988)

- 8-405.        **DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.** It shall be unlawful to deny any person access to, or membership or participation in any multiple-listing service, real estate brokers' organization; or other service organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in terms of conditions of the access, membership, or participation on account of race, color, religion or national origin. (Ord. 87-15, Sec. 5; Code 1988)
- 8-406.        **INTERFERENCE, COERCION, OR INTIMIDATION.** It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his or her having exercised or enjoyed or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by other sections of this article. (Ord. 87-15, Sec. 6; Code 1998)
- 8-407.        **EXEMPTIONS.** (a) Nothing in this article shall prohibit a generally recognized religious organization or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a generally recognized religious organization from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to the persons, unless membership in the religion is restricted on the basis of race, color or national origin. Nor shall anything in this article prohibit a private club, not in fact open to the public, which is incidental to its primary purpose from providing lodgings which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members, provided membership in the club is not restricted on account of race, religion or national origin.
- (b) Single-family houses sold or rented by an owner shall be exempt from the conditions of this article, provided that the owner does not own more than three single-family houses at any one time, and provided that the owner does not own any interest in the sale or rental of any additional houses. Provided further, that in the case of the sale of any house by an owner not residing in the house or who was not the most recent resident of the house, the exemption shall apply only to one sale within any 24 month period. Provided, further, that the sale or rental is made without the use of any manner of the facilities of any real estate broker, agent or salesman or any person in the business of selling or renting dwellings.
- (c) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence. (Ord. 87:15, Sec. 7; Code 1998)
- 8-408.        **ADMINISTRATION.** The authority and responsibility for administering this article shall be the governing body of the city or their officially appointed delegate who may be an employee of the city or a board of employees. The governing body shall by rule prescribe the rights of appeal from decisions of the city, as shall employees to other employees or to the elected officials of the city, as shall be appropriate and in accordance with the law. The governing body shall provide the educational and conciliatory activities as will further the purposes of this article, including conferences of persons in the housing industry, with the intent of establishing programs of voluntary compliance and of enforcement. (Ord. 87-15, Sec. 8; Code 1988)

8-409.

**ENFORCEMENT.** (a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter person aggrieved), may file a complaint with the governing body. Complaints shall be in writing and shall contain the information and be in such form as the governing body requires. Upon receipt of a complaint, the governing body shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint or within 30 days after the expiration of any period of reference under subsection (c), the governing body shall investigate the complaint and give notice in writing to the person aggrieved whether they intend to resolve it. If the governing body intends to resolve the complaint(s), they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of the informal endeavors may be made public without the written consent of the persons concerned. Any employee of the governing body who shall make public any information in violation of this provision shall be deemed guilty of a violation of this code and upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaint shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the governing body which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(c) If, within 30 days after a complaint is filed with the governing body, the governing body has been unable to obtain voluntary compliance with this article, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The governing body will assist in this filing.

(d) If the governing body has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days thereafter, commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this article, insofar as the rights related to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in the practice or order affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual shall come to trial, the governing body shall immediately terminate all efforts to obtain voluntary compliance.

(g) Any person who has intimidated any other person from the exercise or enjoyment of his or her rights under section 8- 406, shall be subject to a fine of not more than \$1,000 or imprisoned not more than a year or both.

(Ord. 87-15, Sec. 9; Code 1998)

## ARTICLE 4A. MINIMUM HOUSING CODE

- 8-4A01. TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2015)
- 8-4A02. GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2015)
- 8-4A03. DECLARATION OF POLICY. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:
- (a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
  - (b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.
  - (c) Determines the responsibilities of owners, operators and occupants.
  - (d) Provides for the administration and enforcement thereof.
- (Code 2015)
- 8-4A04. DEFINITIONS. The following definitions shall apply to the enforcement of this code:
- (a) Basement - shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
  - (b) Cellar - shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
  - (c) Dwelling - shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.
  - (d) Dwelling Unit - shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.
  - (e) Habitable Dwelling - shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.
  - (f) Habitable Room - shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.
  - (g) Infestation - shall mean the presence, within or around a dwelling, of insects, rodents, or other pests.

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

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

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

(k) Owner - shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

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

(m) Plumbing - shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water 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.

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

(o) Public Officer - shall mean the code enforcement officer.

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

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

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

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

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

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

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

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

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

(v) 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."  
(Code 2015)

8-4A05. 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 premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-4A08:4A09.

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

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

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

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

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.  
(Code 2015)

8-4A06. REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

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

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

(c) Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-4A06(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

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

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

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

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

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

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

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

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

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

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

(k) Kitchen Sink. In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to

the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the city health department.

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

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

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

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

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

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

(r) Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window or windows openable directly to the outside air and the total area of such window or windows shall be not less than five percent of the floor area of such room. 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.

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

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

(Code 2015)

8-4A07. MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 2015)

8-4A08. DESIGNATION OF UNFIT DWELLINGS. The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(a) The 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 which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the neighborhood, or which shall have a blighting influence on properties in the area.



- (b) Such Conditions may include the following without limitation:
- (1) Defects therein increasing the hazards of fire, accident, or other calamities.
  - (2) Lack of:
    - (i) Adequate ventilation.
    - (ii) Light.
    - (iii) Cleanliness.
    - (iv) Sanitary facilities.
  - (3) Dilapidation.
  - (4) Disrepair.
  - (5) Structural defects.
  - (6) Overcrowding.
  - (7) Inadequate ingress and egress.
  - (8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.
  - (9) Air Pollution.
- (c) Placarding - Order to Vacate. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public officer shall be vacated within a reasonable time as so ordered.
- (d) Notice of Violation. Procedures as outlined in section 8-4A12 are applicable hereto.
- (e) Compliance Required before Re-occupancy. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the 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 which 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.
- (Code 2015)

8-4A09. DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL). The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

- (a) The Public Officer may determine, or five citizens may petition in writing, that if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:
- (1) Dead trees or other unsightly natural growth.
  - (2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

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

(b) Notice of Violation. Procedures as outlined in section 8-4A12 are applicable hereto.

(Code 2015)

8-4A10. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL). (a) Certain Blighted Conditions covered in sections 8-508:509 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) Notice of Violation. Procedures of notification shall follow those prescribed in section 8-4A12.

(Code 2015)

8-4A11. INSPECTION OF BUILDINGS AND 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 the above paragraph (a) 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. (Code 2015)

8-4A12. 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.

(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. (Code 2015)

8-4A13. 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 which regulate or set standards affecting buildings and premises. (Code 2015)

8-4A14. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:  
(a) To Informally Review all alleged violations as provided in section 8-4A12(a) prior to notification prescribed in section 8-4A12(b).

(b) To Take Action as prescribed in section 8-4A12(b).

(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-4A18.

(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.

(3) Where literal enforcement of the code will result in unnecessary hardship. (Code 2015)

8-4A15. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH. At the time of the placarding and order to vacate specified by section 8-4A08(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 section 8-4A12. (Code 2015)

8-4A16. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to Comply with the order under section 8-4A15 hereof 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 section 8-4A09 of the code.

(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. (Code 2015)

8-4A17. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY. (a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 2015)

8-4A18. 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 10 days after receiving notice of the decision from the public officer, as provided in section 8-4A12(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

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

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

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

(e) Except where an immediate hazard exists as described in section 4-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter. (Code 2015)

8-4A19. RIGHT OF PETITION. After exhausting the remedy provided in section 8-4A18, 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 which 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. (Code 2015)

## **ARTICLE 5. EMERGENCY MEDICAL SERVICE**

- 8-501.       EMERGENCY MEDICAL SERVICE ESTABLISHED. The governing body of the city is hereby authorized, when it deems that an emergency exists and that in order to properly protect or insure the health of the city and the public, to establish an emergency medical service pursuant to and in accordance with K.S.A. 65-4302 and to enter into a contract with any person or governmental entity for the purpose of furnishing emergency medical service within the boundaries of the city.  
(Ord. 1049, Sec. 1:2; Code 1988)

## ARTICLE 6. WASTE VEHICLE TIRES

8-601.

### DEFINITIONS.

- (a) Abatement - means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
- (b) Beneficial Use - means the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires.
- (c) Landfill - means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
- (d) Person means any individual, association, partnership, limited partnership, corporation or other entity.
- (e) Secretary - means the Kansas Secretary of Health and Environment.
- (f) Store or Storage - means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, in such other beneficial uses as the secretary determines do not create health or environmental risks.
- (g) Tire - means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle.
- (h) Tire Retailer - means a person in the business of selling new or used replacement tires at retail.
- (i) Vehicle - has the meaning provided by K.S.A. 8-1485 and amendments thereto.
- (j) Waste Tire - means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.
- (k) Waste Tire Collection Center - means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.
- (l) Waste Tire Processing Facility - means a site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
- (m) Waste Tire Site - means a site at which 100 or more whole tires are accumulated.
- (n) Dispose - means to deposit, dump, spill or place any waste tire on any land or into any water.
- (o) Financial Assurance - means a performance bond, letter of credit, cash deposit, insurance policy or other instrument for the purpose of guaranteeing a required regulatory action that must be performed by the permittee.
- (p) Recycle or Recycling - means any process by which solid waste materials are transformed into new products in such a manner that the original products lose their identity.
- (q) Retreaded - means a person engaged in the business of recapping fire casings to produce recapped tires for sale to the public.
- (r) Rick - means stacking tires securely by overlapping so that the center of a tire is offset from the center of the tire below it.
- (s) Tire Collection - means a person who transports waste tires to a permitted tire collection center, processing facility or permitted solid waste disposal facility for the purpose of storage, processing or disposal of waste tires. The term tire collector does not include the following:
  - (1) Solid waste collectors collecting mixed residential solid waste and who transport fewer than five tires at a time from any location; and

- (2) Persons who transport fewer than five tires for disposal.
- (t) Tire Monofill - means a permitted solid waste landfill or landfill cell in which only processed waste tires are placed.
- (u) Tire Processor - means a person engaged in the processing of waste tires.
- (v) Tire Derived Products - means tire chips or other usable materials produced from the physical processing of a waste tire.
- (w) Truck Tire - means a tire with a rim diameter of 18 inches or more.
- (x) Waste Tires Generated in Kansas - means those tires which first become a waste tire in Kansas. A tire casing imported into Kansas for potential recapping, but which proves unusable for that purpose, is a waste tire generated in Kansas. Other examples of waste tires generated in Kansas include but are not limited to:
  - (1) Tire accepted by a Kansas tire retailer at the time of exchange for new replacement; and
  - (2) Tires removed from a junked motor vehicle at a wrecking yard in Kansas. (Ord. 92-15, Sec. 1; Code 1998)

- 8-602. DISPOSAL; PROHIBITIONS. (a) Maintain a waste tire site unless:
- (1) Such site is an integral part of the person's waste tire processing facility; or,
  - (2) The tires accumulated at such site are for use in the person's tire retreading business.
- (b) Dispose of waste tires in the state unless, the waste tires are disposed of for processing, or collected for processing, at a solid waste processing facility, a waste tire site which is an integral part of a waste tire processing facility, a waste tire processing facility or a waste tire collection center or are made available to:
- (1) The department of wildlife and parks for use by the department; or,
  - (2) A person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use to the person accumulating the tires and
    - (A) the secretary determines that the use has no adverse environmental effects and
    - (B) the accumulation is in accordance with all applicable zoning regulations.
- (c) Deposit waste tires in a landfill as a method of ultimate disposal, except that the secretary, by rules and regulations, may:
- (1) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal or are utilized as part of a proven and approved leachate collection system in their original state; and
  - (2) Allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.
- (Ord. 92-15, Sec. 2; Code 1998)

- 8-603. WASTE TIRE PROCESSING FACILITY; REGULATIONS, EXEMPTIONS
- (a) No person shall:
    - (1) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector unless such person holds a valid permit issued therefore by the secretary;

(2) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector except in compliance with the standards established by the secretary.

(b) The provisions of subsection (a) above shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;

(3) A retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises;

(4) The department of wildlife and parks;

(5) A person engaged in farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use.

(Ord. 92-15, Sec. 3; Code 1998)

8-604. WASTE TIRE PROCESSING FACILITY; OUTDOOR STORAGE STANDARDS. If waste tires are stored, collected or held outdoors, the following standards shall be observed:

(a) All requirements of K.A.R. 28-29-31 (b)(1), as amended from time to time.

(b) No waste tire pile shall be more than 50 feet wide or six feet tall, and no waste tire pile shall occupy more than 5,000 square feet.

(c) Each waste tire pile shall be ricked if the tires are held or to be held more than one month.

(d) Each waste tire pile shall be completely surrounded by at least 50 feet of clear space.

(e) Each waste tire pile shall be located at least 100 feet from the nearest real property not owned or controlled by the person owning or controlling the waste tire pile, and all vegetation within 100 feet of a waste tire pile shall be maintained at a maximum height of four inches.

(f) No building shall be located within 60 feet of a waste tire pile.  
(Ord. 92-15, Sec. 4; Code 1998)

8-605. TRANSPORTING WASTE TIRES. Any person who transports waste tires and who qualifies as a waste tire collector, i.e., transports five or more tires at one time, must:

(a) Display on the vehicle a current permit issued by the Kansas Department of Health and Environment; and,

(b) Keep and maintain records for three years showing the number of tires collected, where and from whom the tires were collected, and where the tires were deposited. (Ord. 92-15, Sec. 5; Code 1998)

8-606. VIOLATIONS AND PENALTIES.

(a) Any person who violates any portion of this action shall be subject to a fine of not less than \$10 nor more than \$200 for each violation.

(b) Each day that a violation continues shall be deemed a separate violation.  
(Ord. 92-15, Sec. 6; Code 1998)



## ARTICLE 7. RODENT CONTROL

- 8-701.        **DEFINITIONS.** For the purposes of this article, the following words and phrases shall have the following meanings:
- (a) Building. - Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.
- (b) Occupant. - The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.
- (c) Owner. - The owner of any building or structure, whether individual, firm, partnership or corporation.
- (d) Rat harborage. - Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.
- (e) Rat-stoppage. - A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.  
(Code 2015)
- 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. (Code 2015)
- 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. (Code 2015)
- 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. (Code 2015)

- 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. (Code 2015)
- 8-706.        **NOTICE TO ERADICATE RATS.** 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. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2015)
- 8-707.        **CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.** (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.  
      (b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.  
      (c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.  
      (d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 2015)
- 8-708.        **INSPECTIONS.** The code enforcement 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. (Code 2015)

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

- 8-801.       SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent 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. (Code 1998)
- 8-802.       LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent 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. (Code 1998)
- 8-803.       SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-802, the insurer or insurers shall contact the county treasurer, Cherokee 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, Cherokee County, Kansas. (Code 1998)
- 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. (Code 1998)
- 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 percent 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 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.
- (b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.  
(Code 1998)

8-806. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 1998)

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

(a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

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

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

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

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.  
(Code 1998)

8-808. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 1998)

8-809. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-805(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the

insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-805(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 1998)

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. (Code 1998)

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. (Code 1998)

## **ARTICLE 9. ASSISTANCE TO OTHER JURISDICTIONS**

- 8-901. ASSISTANCE PROVIDED. In the event of a disaster when there is a request for assistance, if the city can provide assistance without unduly jeopardizing the protection of its own community, that this article hereby authorizes the city mayor or his or her designee to provide such assistance as may be required under authority granted in Chapter 75 of the 1994 Session Laws of Kansas, with all the privileges and immunities provided therein.  
(Ord. 95-9, Sec. 1; Code 1998)
- 8-902. SAME. Nothing in this article is intended to conflict or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority to enter into those in the future.  
(Ord. 95-9, Sec. 2; Code 1998)
- 8-903. SAME. It is the intent of this article to provide assistance in any form of service including, but not limited to, police, fire, emergency management services, public works, administrative and clerical during times of disaster as defined in Chapter 75 of the 1994 Session Laws of Kansas, with all the privileges and immunities described therein.  
(Ord. 95-9, Sec. 3; Code 1998)