

## CHAPTER VIII. HEALTH AND WELFARE

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### ARTICLE 1. BOARD OF HEALTH

8-101. BOARD OF HEALTH CREATED. The board of health shall consist of a city health officer, who shall be a practicing doctor of medicine and two additional members who shall be members of the governing body. The city health officer and the two additional members of the board of health shall be appointed annually by the governing body at the first regular meeting of the governing body in April of each year, to serve for one year terms; provided, that a member of the governing body appointed to the board of health shall have no right to vote for or against his or her own confirmation. The board shall adopt such rules and regulations as may be necessary to guide its operations. The city clerk shall be secretary of the board but shall have no vote. He or she shall preserve its records, rules and regulations and shall issue all orders and notices which may be required by ordinance or order of the board. (Code 1992)

8-102. CITY HEALTH OFFICER; DUTIES. The city health officer shall:

- (a) Cause health investigations and inspections to be made as required by the laws of Kansas and of the city;
- (b) Make recommendations to the board respecting the improvement of health of the inhabitants of the city;
- (c) Make all health reports required by the State Department of Health and Environment, Division of Health;
- (d) Prepare an annual health report of the city for submission to the governing body;
- (e) Perform such other duties as may be required of him or her under the laws of the State of Kansas or of the city.

(Code 1992)

## ARTICLE 2. HEALTH NUISANCES

- 8-201. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
  - (b) All dead animals not removed within 24 hours after death;
  - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
  - (d) All stagnant ponds or pools of water;
  - (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
  - (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited 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 1992)
- 8-202. PUBLIC OFFICER. The city administrator shall designate a public officer to be charged with the administration and enforcement of this article. (Code 1992)
- 8-203. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 1992)
- 8-204. 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 2001)
- 8-205. NOTICE OF VIOLATION. Any person, corporation, partnership or association found by the public officer to be in violation of section 8-201 shall be served a notice of such violation. The notice shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by certified mail, return receipt requested, to the last known address of the owner. (K.S.A. 12-1617e; Code 2001)

- 8-206. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-201. The notice shall also inform the person, corporation, partnership or association that
- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-201; or
  - (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-209;
  - (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208.  
(Code 1992)
- 8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association 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, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 1992)
- 8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-207, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-206, the 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 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:
- (a) Personal service upon the person in violation;
  - (b) Certified mail, return receipt requested; or
  - (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the 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.  
(Code 2001)
- 8-209. HEARING. If a hearing is requested within the 10 day period as provided in section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 8-208. (Code 1992)

8-210. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-208, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1992)

## ARTICLE 2A. ENVIRONMENTAL CODE

8-2A01. TITLE. This article shall be known as the "Environmental Code." (Code 1992)

8-2A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 1992)

8-2A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 1992)

8-2A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:

- (1) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."
- (2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.
- (3) Number - Words of number shall be construed to mean singular or plural, as may be applicable.
- (4) Tense - Words of tense shall be construed to mean present or future, as may be applicable.
- (5) Shall - The word shall is mandatory and not permissive.

(Code 1992)

8-2A05.

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

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

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

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

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

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

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

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

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

(9) Refuse - garbage and trash.

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

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

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

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

(14) Yard - the area of the premises not occupied by any structure.  
(Code 1992)

8-2A06.

PUBLIC OFFICER. The city administrator shall designate a public officer to be charged with the administration and enforcement of this article.  
(Code 1992)

8-2A07.

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 1992)

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

(a) Exterior conditions (yard) shall include, but 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 1992)

8-2A09. NOTICE. Any person found by the public officer to be in violation of section 8-2A08 shall be sent a notice of such violation by the public officer. The notice shall be sent by certified mail, return receipt requested The notice shall state:

- (a) The condition which has caused the violation of this article; and
- (b) That the person in violation shall have:

- (1) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;
- (2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation;

or in the alternative to subsections (1) and (2) above,

- (3) 15 days from the date of the mailing of the notice to request, as provided in section 8-2A13 a hearing before the governing body on the matter; and

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

(Code 2001)

8-2A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 8-2A09 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09. Upon such complaint in the municipal court,

any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 1992)

8-2A11. ABATEMENT. In addition to, or as an alternative to, prosecution as provided in section 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09, the 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 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in section 8-2A15.

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 conditions exist.

(Code 2001)

8-2A12. HEARING BEFORE GOVERNING BODY. If a hearing is requested within the 15 day period as provided in section 8-2A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 8-2A11. (Code 1992)

8-2A13. APPEALS. Any person affected by any determination of the governing body under sections 8-2A11 or 8-2A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 1992)

8-2A14. COSTS ASSESSED. If the city abates the conditions in violation of this article pursuant to section 8-2A11, the cost of abatement shall be charged against the lot or parcel of ground on which the conditions were located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as

provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1992)

- 8-2A15. CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 1992)

### **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) Service 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 1992)

- 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 1992)

- 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 section 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 1992)

8-304. PUBLIC OFFICER. The city administrator shall designate a public officer to be charged with the administration and enforcement of this article. (Code 1992)

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 1992)

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 2001)

8-307. NOTICE. Any person found by the public officer to be in violation of section 8-303 shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; or by personal service. (Code 2001)

8-308. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person that:

- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-303; or
- (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body 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 1992)

8-309. 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 8-303, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 1992)

8-310. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice 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 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 8-313. 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) 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.

(Code 2001)

8-311. DISPOSITION OF VEHICLE. 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. (Code 1992)

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 public officer before the governing body. The hearing shall be held by the governing body 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-310. (Code 1992)

8-313. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-310, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1992)

#### **ARTICLE 4. WEEDS**

8-401. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Ord. 992, Sec. 1; Code 2001)

8-402. DEFINITIONS. Weeds as used herein, means any of the following:  
(a) Brush and woody vines shall be classified as weeds;  
(b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;  
(c) Weeds which bear or may bear seeds of a downy or wingy nature.  
(d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;  
(e) Weeds and grasses on or about 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. 992, Sec. 2; Code 2001)

8-403. PUBLIC OFFICER; NOTICE TO REMOVE. The city administrator shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by certified mail, return receipt requested, or by personal service, once per calendar year. Such notice shall include the following:  
(a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.  
(b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.  
(c) That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.  
(d) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.  
(e) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.  
(f) That no further notice shall be given prior to removal of weeds during the current calendar year.  
(g) That the public officer should be contacted if there are any questions regarding the order.

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 section. (Ord. 992, Sec. 3; Code 2001)

8-404. ABATEMENT; ASSESSMENT OF COSTS. (a) Upon the expiration of 10 days after receipt of the notice required by section 8-403, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-401, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by certified mail, return receipt requested, of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

(c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

(K.S.A. 12-1617f; Ord. 992, Sec. 4; Code 2001)

8-405. RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Ord. 992, Sec. 5; Code 2001)

8-406. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Ord. 992, Sec. 6; Code 2001)

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

(b) For the purpose of this section, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*).

(K.S.A. 2-1314; Ord. 992, Sec. 7; Code 2001)

## ARTICLE 5. MINIMUM HOUSING CODE

- 8-501. TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 1992)
- 8-502. GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 1992)
- 8-503. DECLARATION OF POLICY. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:
- (a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
  - (b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.
  - (c) Determines the responsibilities of owners, operators and occupants.
  - (d) Provides for the administration and enforcement thereof.
- (Code 1992)
- 8-504. DEFINITIONS. The following definitions shall apply to the enforcement of this code:
- (a) Basement shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
  - (b) Cellar shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
  - (c) Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.
  - (d) Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.
  - (e) Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.
  - (f) Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.

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

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

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

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

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

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

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

(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 ordinance, they shall be construed as though they were followed by the words "or any part thereof."  
(Code 1992)

8-505.

**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 8-508:509.

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

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

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

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

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.  
(Code 1992)

8-506.

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

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

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

(c) Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the 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 1992)

8-507. MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 1992)

8-508.

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

(a) The 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 8-512 are applicable hereto.

(e) Compliance Required before Reoccupancy. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the 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 1992)

8-509.

DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL). The designation of unsightly and blighted premises and

elimination thereof shall be carried out in compliance with the following requirements.

(a) The 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 8-512 are applicable hereto.

(Code 1992)

8-510. 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 8-512.

(Code 1992)

8-511. 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 1992)

8-512. 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 2001)

8-513. 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 1992)

8-514. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:  
(a) To Informally Review all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b).  
(b) To Take Action as prescribed in section 8-512(b).  
(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-518.  
(d) Discretionary Authority may be exercised in specific cases where variance from the terms of the code as:  
(1) Will not adversely 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 1992)

8-515. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH. At the time of the placarding and order to vacate specified by section 8-508(c) hereof, the 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 8-512. (Code 1992)

- 8-516. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS. (a) Failure to Comply with the order under section 8-515 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 8-509 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 1992)
- 8-517. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY. (a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.
- (b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 1992)
- 8-518. 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 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.
- (b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.
- (c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.
- (d) Notice of the date for the hearing shall be sent to the appellant at least 10 days before the hearing.

(e) Except where an immediate hazard exists as described in section 8-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.  
(Code 1992)

8-519. RIGHT OF PETITION. After exhausting the remedy provided in section 8-518, 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 1992)

## ARTICLE 6. RODENT CONTROL

8-601. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

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

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

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

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

(e) Rat-stoppage. A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.  
(Code 1992)

8-602. BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 1992)

8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the

written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 1992)

- 8-604.            **FAILURE TO COMPLY.** If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 1992)
- 8-605.            **REPLACE RAT-STOPPAGE.** It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 1992)
- 8-606.            **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 1992)
- 8-607.            **CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.** (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.
- (b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.
- (c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.
- (d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require

the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.  
(Code 1992)

8-608. INSPECTIONS. The building inspector 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 1992)

## ARTICLE 7. FAIR HOUSING

8-701. POLICY. It is the policy of Horton, Kansas, to provide, within constitutional limitations, for fair-housing throughout the city. (Ord. 779, Sec 1)

8-702. DEFINITIONS. As used in this article:

(a) Commission means the mayors' commission on Human Rights and Community Relations.

(b) Dwelling means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

(c) Family includes a single individual.

(d) Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(e) To Rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) Discriminatory Housing Practice means an act that is unlawful under sections 8-704, 8-705, or 8-706.  
(Ord. 779, Sec. 2)

8-703. EFFECTIVE DATES OF CERTAIN PROHIBITIONS. The prohibitions against discrimination in the sale or rental of housing set forth in section 8-704 shall apply upon enactment to all dwellings and housing covered herein. (Ord. 779, Sec. 3)

8-704. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING. 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 provisions 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 with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion or national origin, or an intention to make any such preference, limitation or discrimination.

(d) To represent to any person, because of race, creed, color, religion, national origin or ancestry, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by 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. 779, Sec. 4)

8-705. DISCRIMINATION IN THE FINANCING OF HOUSING. It shall be unlawful for any bank, savings and loan association, insurance company or other corporation, association, firm or enterprise 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 a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, creed, color, religion, national origin or ancestry of such person or of any person associated with him or her in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given. (Ord. 779, Sec. 5)

8-706. 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 him or her in terms or conditions of such access membership

or participation, on account of race, creed, color, religion, national origin or ancestry. (Ord. 779, Sec. 6)

8-707. ADMINISTRATION. The authority and responsibility for administering this ordinance shall be in the mayor's commission on Human Rights and Community Relations. (Ord. 779, Sec. 7)

8-708. EDUCATION AND CONCILIATION. The commission shall commence such education and conciliatory activities as in its judgment will further the purposes of this article. It may hold conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this article and their suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. The commission shall issue such reports on such conferences and consultations as it deems appropriate. (Ord. 779, Sec. 8)

8-709. 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 commission. Complaints shall be in writing and shall contain such information and be in such form as the commission requires. The commission 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, the commission shall investigate the complaint and give notice in writing to the person aggrieved whether it intends to resolve it. If the commission decides to resolve the complaint, it shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference.

(b) A complaint under subsection (a) shall be filed within 180 after the alleged discriminatory housing practice occurred. Complaints 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 permission of the commission, 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) After the filing of any complaint, the chairperson of the commission shall designate one of the members of the commission to make a prompt investigation in connection therewith and to report his or her findings to the commission. If the commission shall determine after the investigation that reasonable cause exists for crediting the allegations of the complaint, it shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. If, during the course of conciliation, the property owner or duly authorized agent will not agree voluntarily to withhold from the market the subject housing accommodation for a period of 15 days from the date of such a finding of reasonable cause, the commission may cause to be posted for a period of 15 days from the date of the finding, which period shall be renewable, on the door of the housing accommodation, a notice stating that the accommodation is the subject of a complaint before the commission and that prospective transferees will take the accommodation at their peril. Any

destruction, defacement, alteration or removal of the notice by the owner or his or her agents, servants, or employees shall be punishable on conviction thereof by a fine of not more than \$100 or by imprisonment for not more than three months or both.

(d) In case of failure to eliminate such practice, or in advance thereof, the chairperson of the commission, if in his or her judgment circumstances so warrant, shall cause to be issued and served in the name of the commission, a written notice, together with a copy of the complaint, as it may have been amended by the complainant or by the commission, requiring the person named in the complaint, (hereinafter referred to as "respondent") to answer the charges of the complaint at a hearing before at least three members of the commission, appointed by the chairperson to set as the commission, at a time and place to be specified in the notice.

(e) The case in support of the complaint shall be presented before the commission by the city attorney and the commission member who had previously made the investigation shall not participate in the hearings except as a witness, nor shall he or she participate in the deliberation of the commission in the case. Evidence concerning endeavors at conciliation shall be excluded.

(f) The respondent may file a written verified answer to the complaint and appear at the hearing with or without counsel, at which he or she may submit testimony and evidence. At the discretion of the commission, the complainant may be allowed to intervene and present testimony in person or by counsel. The commission has the power reasonably and fairly to amend any complaint either prior to or during the hearing of the complainant in accordance with facts developed by the investigation or adduced in evidence in the hearing, and the respondent has like power to amend his or her answer in the same manner. The testimony taken at the hearing shall be under oath.

(g) If, upon all the evidence at the hearing, the commission finds that a respondent has engaged in an unlawful discriminatory practice as previously defined in this ordinance, the commission shall state its findings of facts and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practices and to take such affirmative action, including but not limited to the extension of full and equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as in the judgment of the commission will effectuate the purposes of this article.

(h) If, upon all the evidence, the commission finds that a respondent has not engaged in any unlawful discriminatory practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the complaint as to the respondent. A copy of this order shall be delivered in all cases to the city attorney and such other public officers as the commission deems proper.

(i) The commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.  
(Ord. 779, Sec. 9)

8-710. ENFORCEMENT BY PRIVATE PERSONS. The rights granted by sections 8-304, 8-705 and 8-706 may be enforced by civil actions to enjoin the violation of this ordinance in the district court of Brown County. Any such civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred. The city attorney, on behalf of the city, may intervene as a party plaintiff.  
(Ord. 779, Sec. 10)

8-711. ENFORCEMENT BY THE CITY ATTORNEY. (a) The commission, in the event of failure to secure voluntary compliance with the requirements of this article shall cause the chairperson thereof to certify, in writing, to the city attorney that all reasonable efforts of the commission to secure conciliation are concluded in the matter and the commission shall, with such certification, transmit the commission file, the transcript of the hearing, if any, and in all other respects cooperate with the city attorney.

(b) Upon certification by the commission, the city attorney shall institute a charge in the municipal court against the alleged violator and prosecute the same to a final conclusion.

(c) Pursuant to subsections (a) and (b) above, or whenever the city attorney has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this article, or that any group of persons has been denied any of the rights granted by this article and such denial raises an issue of general public importance, he or she may bring a civil action in the district court of Brown County, by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he or she deems necessary to insure the full enjoyment of the rights granted by this article.

(d) If it appears that the complainant is in danger of suffering irreparable injury, or if it appears that some action is about to be taken which will jeopardize the complainant's interest in the subject property, the city attorney shall file an injunction in the district court of Brown County to prevent the continued violation of this law or to prevent the parties from acting in such a manner as to frustrate the intent and purpose of this article, upon a showing that the complainant would suffer irreparable harm without such action.

(e) Upon a conviction in the municipal court for a violation of section 8-704, 8-705, or 8-706 of this article, in addition to any other penalties which may have been imposed under this article, the license of such person to engage in the real estate business in this city may be suspended for a period not to exceed 30 days, for the first conviction, and may be suspended for a period not to exceed six months or revoked upon the second conviction.

(f) Any person who shall commit discriminatory housing practice in violation of sections 8-704, 8-705, 8-706, or 8-713 of this article shall, upon conviction thereof, be punished for each such violation by a fine not exceeding \$100, or by imprisonment in the municipal jail for a period of time not to exceed three months

for each such violation, or by both such fine and imprisonment. Each day shall constitute a separate violation.  
(Ord. 779, Sec. 11)

8-712. INVESTIGATIONS. (a) In conducting an investigation and hearing the commission shall have access to all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation.

(b) The city attorney shall conduct all litigation in which the commission participates as a party or as amicus pursuant to this article.  
(Ord. 779, Sec. 12)

8-713. INTERFERENCE, COERCION OR INTIMIDATION. It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or an 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 the provisions of this article.  
(Ord. 779, Sec. 13)

8-714. APPROPRIATIONS. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this article. (Ord. 779, Sec. 14)

8-715. SEVERABILITY. If any provision of this article or the application thereof to any person or circumstances is held invalid, the remainder of the article and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. 779, Sec. 15)

## **ARTICLE 8. ENVIRONMENTAL RELEASES**

8-801. DEFINITIONS. (a) Emergency Action. Emergency action shall mean all exigent activities conducted in order to prevent or mitigate harm to the public health and safety and the environment from a release or threatened release of any material into or upon land, water or air.

(b) Person. Person shall include any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.

(c) Recoverable Expenses. Recoverable expenses shall include those expenses of the city that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the course of providing what are traditionally city services and responsibilities, such as routine firefighting protection. Expenses allowable for recovery may include, but are not limited to:

(1) Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.

(2) Compensation of employees for the time and efforts devoted specifically to the emergency action.

- (3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).
  - (4) Replacement costs for equipment owned by the city that is contaminated beyond use or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).
  - (5) Decontamination of equipment contaminated during the response.
  - (6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the city).
  - (7) Other special services specifically required for the emergency action.
  - (8) Laboratory costs of analyzing samples taken during the emergency action.
  - (9) Any costs of cleanup, storage, or disposal of the released material.
  - (10) Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.
  - (11) Medical expenses incurred as a result of response activities.
  - (12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expense pursuant to this article.
  - (d) Release. Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, dumping or disposing into or upon land, water, or air, of any material.
  - (e) Threatened Release. Threatened release shall mean any imminent or impending event potentially causing but not resulting in a release, but causing the city to undertake an emergency action.
- (Ord. 916, Sec. 1)

8-802. STRICT LIABILITY. Any person causing or responsible for a release or threatened release resulting in an emergency action shall be strictly liable to the city for the recoverable expenses resulting from the emergency action. There shall be a rebuttal presumption that any person owning or controlling property causing a release or threatened release is responsible for such release or threatened release. (Ord. 916, Sec. 2)

8-803. RECOVERY OF EXPENSES. (a) Itemization or Recoverable Expenses. City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate city department shall certify those expenses to the city administrator.

(b) Submission of Claim. The city shall submit a written itemized claim for the total expenses incurred by the city for the emergency action to the responsible person and a written notice that unless the amounts are paid in full to the city within 30 days after the date of the mailing of the claim and notice, the city will file a civil action seeking recovery for the stated amount.

(c) Lien on Property. The city may cause a lien in the amount of the recoverable expenses to be placed on any real property located within the city owned by the person causing or responsible for the emergency action.

(d) Civil Suit. The city may bring civil action for recovery of the recoverable expenses against any and all persons causing or responsible for the emergency action.

(Ord. 916, Sec. 3)

- 8-804. STATE AND FEDERAL LAWS. Nothing in this article shall be construed to conflict with state or federal laws requiring persons causing or responsible for release or threatened released from engaging in remediation activities and/or paying the costs thereof. (Ord. 916, Sec. 4)

## **ARTICLE 9. INSURANCE PROCEEDS FUND**

- 8-901. 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 2001)
- 8-902. 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 2001)
- 8-903. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-902, the insurer or insurers shall contact the county treasurer, Brown 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, Brown County, Kansas. (Code 2001)
- 8-904. 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 2001)
- 8-905. 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 2001)

8-906. 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 2001)

8-907. 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 2001)

8-908. 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 2001)

8-909. 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 8-905(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 8-905(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 2001)

8-910. 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 2001)

8-911. 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 2001)