

## CHAPTER VIII. HEALTH AND WELFARE

- Article 1. Health Nuisances
- Article 2. Environmental Code
- Article 3. Junked Motor Vehicles on Private Property
- Article 4. Weeds
- Article 5. Minimum Housing Code
- Article 6. Rodent Control
- Article 7. Insurance Proceeds Fund

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### ARTICLE 1. HEALTH NUISANCES

- 8-101. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
  - (b) All dead animals not removed within 24 hours after death;
  - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
  - (d) All stagnant ponds or pools of water;
  - (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
  - (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
  - (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
  - (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
- (K.S.A. 21-4106:4107; Ord. 545, Sec. 4; Ord. 444, Secs. 1:4; Code 1998)
- 8-102. PUBLIC OFFICER. The city administrator or his or her designee shall designate a public officer to be charged with the administration and enforcement of this article. (Code 1998)
- 8-103. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance.

Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 808, Sec. 4; Code 1998)

- 8-104.       RIGHT OF ENTRY. It shall be a violation of this code to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 808, Sec. 5; Code 1998)
- 8-105.       NOTICE. Any person found by the public officer to be in violation of section 8-101 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Johnson County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. (K.S.A. 12-1617e; Code 1998)
- 8-106.       SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-101. 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 8-101; 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 8-109;
  - (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-107 and/or abatement of the condition(s) by the city as provided by section 8-108.
- (Code 1998)
- 8-107.       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 8-101, be fined in an amount not to exceed \$500 or be imprisoned not to exceed 180 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 808, Sec. 8; Code 1998)
- 8-108.       ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-107, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-105 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-106, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-110. A copy of the resolution shall be served upon the person in violation in one of the following ways:
- (a) Personal service upon the person in violation;
  - (b) Service by restricted mail, postage prepaid, 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.

(Ord. 545, Sec. 7; Code 1998)

8-109. HEARING. If a hearing is requested within the 10 day period as provided in section 8-106, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer 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 8-108. (Ord. 545, Sec. 8; Code 1998)

8-110. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-108, 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. (Ord. 545, Sec. 9; Code 1998)

8-111. ABATEMENT OF SPECIAL DAMAGE. Any person or group who by reason of another's violation of any provision of this article suffers special damage to himself or herself different from that suffered by other property owners throughout the city generally, may bring an action to enjoin or otherwise abate an existing violation. (Ord. 808, Sec. 10)

## **ARTICLE 2. ENVIRONMENTAL CODE**

8-201. TITLE. This article shall be known as the "Environmental Code." (Code 1998)

8-202. 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. The governing body finds that the conditions described in section 8-207 of this article effect the health, safety and general welfare of citizens of the city because they:

(a) Serve as a breeding ground for flies, mosquitoes, rats and other insects or rodents;

- (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, or other unsafe or unstable conditions;
- (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.

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. (Ord. 808, Sec. 1; Code 1998)

8-203. 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 1998)

8-204. 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 1998)

8-205. 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 1998)

8-206. PUBLIC OFFICER. The city clerk shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 808, Sec. 3; Code 1998)

8-207. 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.

(c) The maintenance of any condition that offends the aesthetics of the community as determined by a reasonable person residing in the community.

(Ord. 808, Sec. 2; Code 1998)

8-208. NOTICE. Any person found by the public officer to be in violation of section 8-207 shall be served a notice of such violation. The notice shall be served personally by the public officer or a law enforcement officer or served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Johnson County, Kansas, the notice shall be personally served. In the event the whereabouts of the owner or any agent in charge of the property are unknown and 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 notice may be served by publishing once each week for two consecutive weeks in the official city newspaper and by posting a copy of the notice on the premises where such condition exists. 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) 10 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;

(2) 30 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation;

(3) 30 days from the date of the mailing of the notice to alleviate 8-207(c) violations;

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

(4) 10 days from the date of the mailing of the notice to request, as provided in section 8-212 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 8-209 and/or abatement of the condition by the city according to section 8-210 with the costs assessed against the property under section 8-213.

(Ord. 808, Sec.7; Code 1998)

8-209. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-207, provided however, that such person shall first have been sent a notice as provided in section 8-208 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 8-208. Upon such complaint in the municipal court, any person found to be in violation of section 8-207 shall upon conviction be punished by a fine of not more than \$500, or by imprisonment, for not more than six months, 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 1998)

8-210. ABATEMENT. In addition to, or as an alternative to, prosecution as provided in section 8-209, 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 8-208 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-208, 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 assessed against the property as provided in section 8-213.

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

- (a) Personal service upon the person in violation;
- (b) Service by restricted mail, postage prepaid, 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.

(Ord. 808, Sec. 9; Code 1998)

8-211. HEARING BEFORE GOVERNING BODY. If a hearing is requested within the 10 day period as provided in section 8-208 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 8-210. (Ord. 808, Sec. 11; Code 1998)

8-212. APPEALS. Any person affected by any determination of the governing body under sections 8-210 or 8-211 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 1998)

8-213. COSTS ASSESSED. If the city abates the conditions in violation of this article pursuant to section 8-210, 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. (Ord. 808, Sec. 12; Code 1998)

### **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) Serve 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.
- (Ord. 809, Sec. 1; Code 1998)

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

(a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;

(b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

(Ord. 809, Sec. 2; Code 1998)

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

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

(1) Absence of a current registration plate upon the vehicle;

(2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;

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

(b) The provisions of this 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.

(Ord. 809, Sec. 3; Code 1998)

8-304. COMPLAINTS; INQUIRY AND INSPECTION. The city administrator or his or her designee shall make inquiry and inspection of premises upon receiving a complaint stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the chief of police or the fire chief. The city administrator or his or her designee may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 809, Sec. 5; Code 1998)

8-305. RIGHT OF ENTRY. It shall be a violation of this article to deny the city administrator or his or her designee the right of access and entry upon private property

at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 809, Sec. 6; Code 1998)

8-306. NOTICE. Any person found by the city administrator or his or her designee to be in violation of section 8-303 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Johnson County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. In the event the whereabouts of the owner or any agent in charge of the property are unknown and 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 notice may be served by publishing once each week for two consecutive weeks in the official city newspaper and by posting a copy of the notice on the premises where such condition exists. (Ord. 809, Sec. 7; Code 1998)

8-307. 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 8-311;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-308 and/or abatement of the condition(s) by the city as provided by section 8-309.

(Ord. 809, Sec. 8; Code 1998)

8-308. 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 \$500 or be imprisoned not to exceed six months or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 809, Sec. 9; Code 1998)

8-309. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-308, 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 8-306 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-307, 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 8-312. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by restricted mail, postage prepaid, 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 premiss where such condition exists.  
(Ord. 809, Sec. 10; Code 1998)

8-310. 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. (Ord. 809, Sec. 11; Code 1998)

8-311. HEARING. If a hearing is requested within the 10 day period as provided in section 8-307, 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 cit 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 8-309. (Ord. 809, Sec. 12; Code 1998)

8-312. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-309, 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. (Ord. 809, Sec. 13; Code 1998)

#### **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. 1006, Sec. 2; Code 1998)

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

- (a) Brush and woody vines;
- (b) Indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Any plants which bear or may bear seeds of a downy or wingy nature.
- (d) Plants or indigenous 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) Plants and indigenous 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. 1006, Sec. 1; Code 1998)

8-403. PUBLIC OFFICER; NOTICE TO REMOVE. The city clerk 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 mail 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. 1006, Sec. 3; Code 1998)

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 restricted mail 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. 1006, Sec. 4; Code 1998)

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. 1006, Sec. 5; Code 1998)

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. (Code 1998)

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. 1006, Sec. 6; Code 1998)

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

8-501. UNIFORM HOUSING CODE INCORPORATED. There is hereby adopted and incorporated by reference the 1991 Edition of the Uniform Housing Code as prepared and published by The International Conference of Building Officials in its entirety, such code being made as a part of the ordinances and code of the city as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012, and 12-3301 and 3302 including any amendments thereto.

No fewer than three copies of the 1991 Uniform Housing Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 960," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change. Each of the three copies shall have a copy of this ordinance attached to it, and shall be available for inspection by the public at all reasonable hours in the office of the city clerk. (Ord. 960, Secs. 1:2)

#### **ARTICLE 6. RODENT CONTROL** (Reserved)

#### **ARTICLE 7. INSURANCE PROCEEDS FUND**

- 8-701. 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. (Ord. 1034, Sec. 1)
- 8-702. 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. (Ord. 1034, Sec. 2)
- 8-703. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-702, the insurer or insurers shall contact the county treasurer, Johnson 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, Johnson County, Kansas. (Ord. 1034, Sec. 3)
- 8-704. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Ord. 1034, Sec. 3)
- 8-705. 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 registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

(Ord. 1034, Sec. 3)

8-706. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Ord. 819, Sec. 6; Code 1998)

8-707. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

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

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

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

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

(Ord. 819, Sec. 7; Code 1998)

8-708. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Ord. 819, Sec. 8; Code 1998)

8-709. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire or explosion, 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 8-705(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 8-705(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Ord. 819, Sec. 9; Code 1998)

8-710. EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Ord. 819, Sec. 10; Code 1998)

8-711. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Ord. 819, Sec. 11; Code 1998)