

## CHAPTER VIII: HEALTH AND WELFARE

### Article

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## ARTICLE 1: BOARD OF HEALTH

### Section

- 8-101 Board of Health created
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#### § 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 person designated by the city at the first regular meeting of the governing body in April of each year, to serve for one-year terms subject to confirmation by designated by the city; 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 that may be required by ordinance or order of the Board.

#### § 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 the state 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; and
- (e) Perform such other duties as may be required of him or her under the laws of the state or of the city.



## ARTICLE 2: HEALTH NUISANCES

### Section

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

### § 8-201 NUISANCES UNLAWFUL; DEFINED.

It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

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

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

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

(d) All stagnant ponds or pools of water;

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

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

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

(h) Any fence, structure, thing, or substance placed upon or being upon any street, sidewalk, alley, or public ground so as to obstruct the same, except as permitted by the laws of the city.  
(K.S.A. 21-6204) (1994 Code, § 8-101)

#### § 8-202 PUBLIC OFFICER.

The Mayor, with the consent of the Council, shall designate a public officer to be charged with the administration and enforcement of this article.  
(1994 Code, § 8-102)

#### § 8-203 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Board of Health, Chief of Police, or the Fire Chief. The public officer may make such inquiry and inspection when he or she observes conditions that appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.  
(1994 Code, § 8-103)

#### § 8-204 RIGHT OF ENTRY.

The public officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for the purpose of making inquiry and inspection to determine if a nuisance exists.  
(1994 Code, § 8-104)

#### § 8-205 ORDER OF VIOLATION.

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

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

first-class mail.  
(K.S.A. 12-1617e)

#### § 8-206 SAME; CONTENTS.

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

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

(b) He, she, or they have ten days from the receipt of the order, plus any additional time granted under division (a) above, to request a hearing before the governing body or its designated representative of the matter as provided by § 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 § 8-207 and/or abatement of the condition(s) by the city as provided by § 8-208.

(K.S.A. 12-1617e) (1994 Code, § 8-106)

#### § 8-207 FAILURE TO COMPLY; PENALTY.

Should the person, corporation, partnership, or association fail to comply with the order to abate the nuisance or request a hearing, the public officer may file a complaint in the Municipal Court of the city against such person, corporation, partnership, or association and upon conviction of any violation of provisions of § 8-201, be fined in an amount not to exceed \$100, or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(1994 Code, § 8-107)

#### § 8-208 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-207, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to § 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in § 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in § 8-210.

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

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested;

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

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

(1994 Code, § 8-108)

#### § 8-209 HEARING.

If a hearing is requested within the ten-day-period as provided in § 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in § 8-208.

(1994 Code, § 8-109)

#### § 8-210 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided



by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 12-1617e) (1994 Code, § 8-110)



## ARTICLE 2A: ENVIRONMENTAL CODE

### Section

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

### § 8-2A01 TITLE.

This article shall be known as the “Environmental Code”.  
(1994 Code, § 8-201)

### § 8-2A02 LEGISLATIVE FINDING OF FACT.

The governing body has found that there exists within the city unsightly and hazardous conditions due to: dilapidation, deterioration, or disrepair of walls, siding, fences, or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles, or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety, and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided.  
(1994 Code, § 8-202)

### § 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.

(1994 Code, § 8-203)

### § 8-2A04 RULES OF CONSTRUCTION.

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

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

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

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

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

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

(1994 Code, § 8-204)

### § 8-2A05 DEFINITIONS.

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

**ABANDONED MOTOR VEHICLE.** Any motor vehicle that is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.

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

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

**DILAPIDATION, DETERIORATION, or DISREPAIR.** Any condition characterized by, but not limited to, holes, breaks, rot, decay, crumbling, cracking, peeling, or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use, or weathering.

**EXTERIOR.** Those parts of a structure that are exposed to the weather or subject to contact with the elements; including, but not limited to, sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors, or signs.

**GARBAGE.** Without limitation any accumulation of animal, fruit, or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

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

**PREMISES.** Any lot, plot, or parcel of land including the structures thereon. **PREMISES** shall also mean any lot, plot, or parcel of land without any structures thereon.

**REFUSE.** Garbage and trash.

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

**STRUCTURE.** Anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, including any appurtenances belonging thereto.

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

**WEATHERED.** Deterioration caused by exposure to the elements.

**YARD.** The area of the premises not occupied by any structure.  
(1994 Code, § 8-205)

#### § 8-2A06 PUBLIC OFFICER.

The Mayor, with the consent of the Council, shall designate a public officer to be charged with the administration and enforcement of this article.  
(1994 Code, § 8-206)

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

(1994 Code, § 8-207)

§ 8-2A08 UNLAWFUL ACTS.

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

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

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

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

(B) Abandoned motor vehicles;

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

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

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

(A) Exteriors of any structure;

(B) Exteriors of any accessory structure; or

(C) Fences, walls, or retaining walls.

(1994 Code, § 8-208)

§ 8-2A09 ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of § 8-2A08 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

24-month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

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

(2) That the person in violation shall have:

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

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

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

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

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

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

#### § 8-2A10 PENALTY.

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

(1994 Code, § 8-210)

#### § 8-2A11 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to § 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in § 8-2A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in § 8-2A14.

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

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested; or

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

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

(1994 Code, § 8-211)

#### § 8-2A12 HEARING.

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

(1994 Code, § 8-212)



### § 8-2A13 APPEALS.

Any person affected by any determination of the governing body under §§ 8-2A11 and 8-2A12 may appeal such determination in the manner provided by K.S.A. 60-2101.  
(1994 Code, § 8-213)

### § 8-2A14 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(1994 Code, § 8-214)

### § 8-2A15 CONSTRUCTION.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the State Constitution, by any other law or by ordinance.

(1994 Code, § 8-215)



## ARTICLE 3: JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

### Section

- 8-301 Findings of governing body
- 8-302 Definitions
- 8-303 Nuisances unlawful; defined; exceptions
- 8-304 Public officer
- 8-305 Complaints; inquiry and inspection
- 8-306 Right of entry
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- 8-308 Same; contents
- 8-309 Failure to comply; penalty
- 8-310 Abatement
- 8-311 Disposition of vehicle; recovery of vehicle
- 8-312 Hearing
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### § 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; and
  - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
- (1994 Code, § 8-301)

### § 8-302 DEFINITIONS.

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

**INOPERABLE.** A condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the function or purpose for which it was originally constructed.

**VEHICLE.** Without limitation, any automobile, truck, tractor, or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.  
(1994 Code, § 8-302)

### § 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) (1) A **MOTOR VEHICLE NUISANCE** is any motor vehicle that is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked, or inoperable condition.

(2) Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked, or inoperable:

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

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

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

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

(1) Any motor vehicle that 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 division (b)(3) shall be construed to authorize the maintenance of a public nuisance.

(1994 Code, § 8-303)

### § 8-304 PUBLIC OFFICER.

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

(1994 Code, § 8-304)

§ 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 that appear to constitute a nuisance. Upon making any inquiry and inspection, the public officer shall make a written report of findings.

(1994 Code, § 8-305)

§ 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.

(1994 Code, § 8-306)

§ 8-307 ORDER OF VIOLATION.

(a) (1) The governing body shall serve upon the owner, any agent of the owner of the property, or any other person, corporation, partnership, or association found by the public officer to be in violation of § 8-303 an order stating the violation.

(2) The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) (1) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24-month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication, or first-class mail.

(2) If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

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

§ 8-308 SAME; CONTENTS.

(a) The order shall state the condition(s) which is (are) in violation of § 8-303.

(b) The order shall also inform the person, corporation, partnership, or association that:

(1) He, she, or they shall have ten days from receipt of the order to abate the condition(s) in violation of § 8-303; or

(2) He, she, or they have ten days from receipt of the order to request a hearing before the governing body or its designated representative of the matter as provided by § 8-312;

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

(1994 Code, § 8-308)

§ 8-309 FAILURE TO COMPLY; PENALTY.

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

(1994 Code, § 8-309)

§ 8-310 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been sent pursuant to § 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in § 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 ten days after passage of the resolution.

(b) (1) The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in § 8-313.

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

(A) Personal service upon the person in violation;

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

(C) In the event the whereabouts of such person are unknown and the same cannot be

ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the City Clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

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

(1994 Code, § 8-310)

#### § 8-311 DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE.

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

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

(1994 Code, § 8-311)

#### § 8-312 HEARING.

(a) If a hearing is requested within the ten-day period as provided in § 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. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof.

(b) At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in § 8-310.

(1994 Code, § 8-312)

**§ 8-313 COSTS ASSESSED.**

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

(1994 Code, § 8-313)



## ARTICLE 4: WEEDS

### Section

- 8-401 Weeds to be removed
- 8-402 Definition
- 8-403 Public officer; notice to remove
- 8-404 Abatement; assessment of costs
- 8-405 Right of entry
- 8-406 Unlawful interference
- 8-407 Noxious weeds
- 8-408 Alternative fine

### § 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.

(1994 Code, § 8-401) (Ord. B-527, passed 8-20-2012)

### § 8-402 DEFINITION.

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

WEEDS. As used herein, means any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds which bear or may bear seeds of a downy or wingy nature;
- (4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety, or welfare; or
- (5) Weeds and grasses on or about residential property which, because of its height, has a

blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(1994 Code, § 8-402) (Ord. B-527, passed 8-20-2012)

#### § 8-403 PUBLIC OFFICER; NOTICE TO REMOVE.

(a) (1) The Mayor, with the Consent of the Council, shall designate a public officer to be charged with the administration and enforcement of this article. 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 article, by mail or by personal service, once per calendar year.

(2) Such notice shall include the following:

(A) The owner, occupant, or agent in charge of the property is in violation of the city weed control law;

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

(C) The owner, occupant, or agent in charge of the property may request a hearing before the governing body or its designated representative with five days of the receipt of notice;

(D) If the owner, occupant, or agent in charge of the property does not cut the weeds, the city or its authorized agent may 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) 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) No further notice shall be given prior to removal of weeds during the current calendar year;

(G) The public officer should be contacted if there are any questions regarding the order.

(b) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this division (b), 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.

(1994 Code, § 8-403) (Ord. B-527, passed 8-20-2012)

#### § 8-404 ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of ten days after the receipt of the notice required by § 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 § 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 of 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.  
(1994 Code, § 8-404) (Ord. B-527, passed 8-20-2012)

#### § 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.  
(1994 Code, § 8-405) (Ord. B-527, passed 8-20-2012)

#### § 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.  
(1994 Code, § 8-406) (Ord. B-527, passed 8-20-2012)

#### § 8-407 NOXIOUS WEEDS.

Nothing in this article shall affect or impair the rights of the city under the provisions of K.S.A. Ch. 2, Art. 13, relating to the control and eradication of certain noxious weeds.  
(1994 Code, § 8-407) (Ord. B-527, passed 8-20-2012)

#### § 8-408 ALTERNATIVE FINE.

As an alternative to the removal of weeds, the city or its authorized agent may fine the owner, occupant, or agent in charge of the property the sum of \$25 per day until the property is mowed and assess the fine against the property as provided in § 8-404. The notice provision as provided in § 8-403 shall be applicable to the fine hereunder.  
(Ord. 527, passed 8-20-2012) (Ord. B-527, passed 8-20-2012)



## ARTICLE 5: MINIMUM HOUSING CODE

### Section

- 8-501 Title
- 8-502 General
- 8-503 Declaration of policy
- 8-504 Definitions
- 8-505 Duty of occupant or owner of occupied or unoccupied building and its premises or vacant premises
- 8-506 Regulations for the use and occupancy of dwellings
- 8-507 Maintenance and repair; dwellings
- 8-508 Designation of unfit dwellings
- 8-509 Designation of blighted premises (residential and nonresidential)
- 8-510 Designation of blighted buildings and premises (nonresidential)
- 8-511 Inspection of buildings, structures, and premises
- 8-512 Notice of violations; procedures
- 8-513 Public officer; authority
- 8-514 Governing body; authority
- 8-515 Order to correct and/or repair, remove, or demolish
- 8-516 Demolition by public officer; procedure and costs
- 8-517 Conflict of laws; effect or partial invalidity
- 8-518 Governing body; appeals
- 8-519 Right of petition

### § 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”.

(1994 Code, § 8-501)

### § 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 nonresidential, shall conform to the requirements of this code.

(1994 Code, § 8-502)

### § 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, public health, and general appearance; protect the safety of the people; and promote the general welfare by legislation that shall be applicable to all dwellings, structures, and premises now in existence or hereafter constructed or developed and which legislation:

- (a) Establishes minimum standards for basic equipment and facilities for light, ventilation, and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
- (b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and nonresidential structures;
- (c) Determines the responsibilities of owners, operators, and occupants; and
- (d) Provides for the administration and enforcement thereof.  
(1994 Code, § 8-503)

#### § 8-504 DEFINITIONS.

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

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

**CELLAR.** A portion of a building located 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.

**DWELLING.** Any building that 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.

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

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

**HABITABLE ROOM.** A room designed to be used for living, sleeping, eating, or cooking purposes, excluding bathrooms, toilet rooms, closets, halls, and storage places, or other similar places, not used by persons for extended periods.

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

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

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

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

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

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

**PLUMBING.** Includes all of the following supplied facilities and equipment: gas or fuel pipes; gas or fuel burning equipment; water pipes; garbage disposal units; waste pipes; water closets; sinks; installed dishwashers; lavatories; bathtubs; shower baths; installed clothes-washing machines; catch basins; drains; vents; and any other similar supplied fixtures, together with all connections to water, sewer, gas, or fuel lines.

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

**PUBLIC OFFICER.** The Building Inspector.

**ROOMING HOUSE.** Any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

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

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

(1) **GARBAGE.** Any accumulation of animal, fruit, or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit, or vegetable.

(2) **TRASH (COMBUSTIBLE).** 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).** Waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.

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

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

**TEMPORARY HOUSING.** Any tent, trailer, or other structure used for human shelter that is designed to be transportable and that is not attached to the ground, house, or building or another structure, or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

(b) Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, or “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof”.  
(1994 Code, § 8-504)

#### § 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 premises, including all yards, lawns, and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by §§ 8-508 and 8-509.

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

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

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

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



(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.  
(1994 Code, § 8-505)

#### § 8-506 REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.

(a) No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, that does not comply with the following requirements.

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

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

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

(3) Basement dwelling units. The use of basements or cellars for dwelling units is prohibited unless they comply with division (b)(18) below governing ventilation; provided, however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

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

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

(A) 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.

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

(6) Drainage. All courts, yards, or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of the water thereon. Properly constructed wading and

swimming pools and fish ponds are excepted from this section.

(7) Entrances.

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

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

(8) Floor area. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this division (b)(8).

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

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

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

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

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

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

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

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

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

(18) Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window or windows openable directly to the outside air and the total area of such window or windows shall be not less than 5% of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of openable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the "on" position.

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

(20) Windows and doors. Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.  
(1994 Code, § 8-506)

#### § 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.  
(1994 Code, § 8-507)

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

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

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

(A) Adequate ventilation;

(B) Light;

(C) Cleanliness; and

(D) Sanitary facilities.

(3) Dilapidation;

(4) Disrepair;

(5) Structural defects;

(6) Overcrowding;

(7) Inadequate ingress and egress;

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

(9) Air pollution.

(c) Placarding; order to vacate. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public officer, shall be vacated within a reasonable time as so ordered.

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

(e) Compliance required before re-occupancy. No dwelling or dwelling unit that has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the public officer.

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

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

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

(1994 Code, § 8-508)

§ 8-509 DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NONRESIDENTIAL).

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

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

(1) Dead trees or other unsightly natural growth;

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

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

(b) Notice of violation. Procedures as outlined in § 8-512 are applicable hereto.  
(1994 Code, § 8-509)

§ 8-510 DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NONRESIDENTIAL).

(a) Certain blighted conditions. Certain blighted conditions covered in §§ 8-508 and 8-509 concerning buildings and premises that are on the tax roll of the city are applicable to all nonresidential buildings and premises.

(b) Notice of violation. Procedures of notification shall follow those prescribed in § 8-512.  
(1994 Code, § 8-510)

§ 8-511 INSPECTION OF BUILDINGS, STRUCTURES, AND PREMISES.

(a) For the purpose of determining compliance with the provisions of this code, the public officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

(b) The public officer is not limited by the conditions in division (a) above where new construction or vacant premises are involved and may make such inspections at any appropriate time.

(c) The owner, operator, and occupant of every dwelling, dwelling unit, and rooming unit shall give the public officer, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination, and survey after identification by proper credentials.

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

(1994 Code, § 8-511)

#### § 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; and

(6) (A) Delivery shall be by certified mail, return receipt requested, or by personal service.

(B) 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.

(1994 Code, § 8-512)

#### § 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 that regulate or set standards affecting buildings and premises.  
(1994 Code, § 8-513)

#### § 8-514 GOVERNING BODY; AUTHORITY.

The governing body is hereby authorized:

(a) To informally review all alleged violations as provided in § 8-512(a) prior to notification prescribed in § 8-512(b);

(b) To take action as prescribed in § 8-512(b);

(c) To hear appeals if there is opposition to any order, requirement, decision, or determination by the public officer in enforcement of this code as outlined in § 8-518; and

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

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

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

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

(1994 Code, § 8-514)

#### § 8-515 ORDER TO CORRECT AND/OR REPAIR, REMOVE, OR DEMOLISH.

At the time of the placarding and order to vacate specified by § 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 § 8-512.

(1994 Code, § 8-515)

#### § 8-516 DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to comply with the order under § 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 § 8-509.

(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.  
(1994 Code, § 8-516)

#### § 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 that establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article that establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code.  
(1994 Code, § 8-517)

#### § 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 ten days after receiving notice of the decision from the public officer, as provided in § 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 ten days before the hearing.

(e) Except where an immediate hazard exists as described in § 4-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in division (a) above shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.  
(1994 Code, § 8-518)

#### § 8-519 RIGHT OF PETITION.

After exhausting the remedy provided in § 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 that the order became final, petition the District Court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order.  
(1994 Code, § 8-519)



## ARTICLE 6: RODENT CONTROL

### Section

- 8-601 Definitions
- 8-602 Building maintenance
- 8-603 Notice to rat-stop; when city to do work
- 8-604 Failure to comply
- 8-605 Replace rat-stoppage
- 8-606 Notice to eradicate rats
- 8-607 Conditions conducive to harborage of rats
- 8-608 Inspections

### § 8-601 DEFINITIONS.

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

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

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

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

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

**RAT-STOPPAGE.** A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the

exterior walls, ground, or first floors, basements, roofs, and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing. (1994 Code, § 8-601)

#### § 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. (1994 Code, § 8-602)

#### § 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. (1994 Code, § 8-603)

#### § 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. (1994 Code, § 8-604)

#### § 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. (1994 Code, § 8-605)

#### § 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.

(1994 Code, § 8-606)

#### § 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 that are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.

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

(1994 Code, § 8-607)

#### § 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.

(1994 Code, § 8-608)



## ARTICLE 7: FAIR HOUSING

### Section

- 8-701 Policy
- 8-702 Definitions
- 8-703 Unlawful practice
- 8-704 Discrimination in the sale or rental of housing
- 8-705 Discrimination in the financing of housing
- 8-706 Discrimination in the provision of brokerage services
- 8-707 Exemptions
- 8-708 Administration
- 8-709 Education and conciliation
- 8-710 Enforcement
- 8-711 Investigations; subpoenas; giving of evidence
- 8-712 Enforcement by private persons
- 8-713 Interference, coercion, or intimidation
- 8-714 Prevention of intimidation in fair housing cases

### § 8-701 POLICY.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city.

(1994 Code § 8-701) (Ord. B-242, passed - -)

### § 8-702 DEFINITIONS.

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

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 8-704 and 8-706.

**DWELLING.** 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.

**FAMILY.** Includes a single individual.

**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.

**TO RENT.** Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(1994 Code § 8-702) (Ord. B-242, passed - -)

### § 8-703 UNLAWFUL PRACTICE.

Subject to the provisions of division (b) below and § 8-707, the prohibitions against discrimination in the sale or rental of housing set forth in § 8-703 shall apply to:

(a) All dwellings except as exempted by division (b) below;

(b) Nothing in § 8-704 shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this division (b)(1) shall apply only with respect to one such sale within any 24-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

(A) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and

(B) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 8-704(c), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.



(c) For the purpose of division (b) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence in providing sales or rental facilities or sales of rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(1994 Code § 8-703) (Ord. B-242, passed - -)

#### § 8-704 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 8-703 and except as exempted by §§ 8-703(b) and 8-707, 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, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; or

(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.

(1994 Code § 8-704) (Ord. B-242, passed - -)

#### § 8-705 DISCRIMINATION IN THE FINANCING OF HOUSING.

It shall be unlawful for any bank, building 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, color, religion, or national origin of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of 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; provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 8-703(b).

(1994 Code § 8-705) (Ord. B-242, passed - -)

#### § 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 the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin.

(1994 Code § 8-706) (Ord. B-242, passed - -)

#### § 8-707 EXEMPTION.

Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(1994 Code § 8-707) (Ord. B-242, passed - -)

#### § 8-708 ADMINISTRATION.

(a) The authority and responsibility for administering this act shall be the Chief Executive Officer of the city.

(b) The Chief Executive Officer may delegate any of these functions, duties, and powers to employees of the city or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this article. The Chief Executive Officer shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other hearing examiners or to the officers in the city, to boards of officers or to himself or herself, as shall be appropriate and in accordance with law.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this article and shall cooperate with the Chief Executive Officer to further such purposes.

(1994 Code § 8-708) (Ord. B-242, passed - -)

§ 8-709 EDUCATION AND CONCILIATION.

Immediately after the enactment of this article, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purposes of this article. He or she shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this article and his or her suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement.

(1994 Code § 8-709) (Ord. B-242, passed - -)

§ 8-710 ENFORCEMENT.

(a) (1) 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 Chief Executive Officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive office requires.

(2) Upon receipt of such a complaint, the Chief Executive Officer shall furnish a copy of the same to the person or person who allegedly committed or about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under division (c) below, the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he or she intends to resolve it. If the Chief Executive Officer decides to resolve the complaints, he or she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion.

(3) Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned. Any employee of the Chief Executive Officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) A complaint under division (a) above shall be filed within 180 days 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. Complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the Chief Executive Officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

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

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

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

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

(1994 Code § 8-710) (Ord. B-242, passed - -)

#### § 8-711 INVESTIGATIONS; SUBPOENAS; GIVING OF EVIDENCE.

(a) In conducting an investigation, the Chief Executive Officer shall have access at 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; provided, however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his or her access to or the production of such materials, or to the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the U.S. District Court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.

(b) Upon written application to the Chief Executive Officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(c) Witnesses summoned by subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in U.S. District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him or her.

(d) Within five days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer shall grant the petition if he or she finds that the subpoena requires appearance or attendance at an unreasonable time or place that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or other person

at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if his or her power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Chief Executive Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Chief Executive Officer pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(g) The City Attorney shall conduct all litigation in which the Chief Executive Officer participates as a party or as amicus pursuant to this article.  
(1994 Code § 8-711) (Ord. B-242, passed - -)

#### § 8-712 ENFORCEMENT BY PRIVATE PERSONS.

(a) The rights granted by §§ 8-703 and 8-706 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or § 8-710(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the Chief Executive Officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Chief Executive Officer and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this article, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this article shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff; provided, that the plaintiff in the opinion of the court is not financially able to assume the attorney's fees.

(1994 Code § 8-712) (Ord. B-242, passed - -)

#### § 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 on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise of enjoyment of, any right granted or protected by §§ 8-703 and 8-706. This section may be enforced by appropriate civil action.

(1994 Code § 8-713) (Ord. B-242, passed - -)

§ 8-714 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with:

(a) Any person because of his or her race, color, religion, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations or facilities described in division (a) above; or

(2) Affording another person or class of persons opportunity or protection so as to participate.

(c) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in division (a) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate, shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years for life

(1994 Code § 8-715) (Ord. B-242, passed - -)

## ARTICLE 8: INSURANCE PROCEEDS FUND

### Section

- 8-801 Scope and application
- 8-802 Lien created
- 8-803 Encumbrances
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- 8-805 Procedure
- 8-806 Fund created; deposit of monies
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- 8-810 Effect upon insurance policies
- 8-811 Insurers; liability

### § 8-801 SCOPE AND APPLICATION.

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75% of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article.

(1994 Code, § 7-401) (Ord. B-447, passed 11-20-2000)

### § 8-802 LIEN CREATED.

The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75% of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense, or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

(1994 Code, § 7-402) (Ord. B-447, passed 11-20-2000)

#### § 8-803 ENCUMBRANCES.

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

(1994 Code, § 7-403) (Ord. B-447, passed 11-20-2000)

#### § 8-804 PRO-RATA BASIS.

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

(1994 Code, § 7-404) (Ord. B-447, passed 11-20-2000)

#### § 8-805 PROCEDURE.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75% of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the City Treasurer in an amount equal to the sum of 15% of the covered claim payment, unless the Chief Building Inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

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

(1994 Code, § 7-405) (Ord. B-447, passed 11-20-2000)

#### § 8-806 FUND CREATED; DEPOSIT OF MONIES.

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

(1994 Code, § 7-406) (Ord. B-447, passed 11-20-2000)



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

(a) Upon receipt of monies as provided for by this article, the City Treasurer shall immediately notify the Chief Building Inspector of said receipt, and transmit all documentation received from the insurance company or companies to the Chief Building Inspector.

(b) Within 30 days of the receipt of said 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 30 days established by division (b) above, the Chief Building Inspector shall notify the City Treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the Chief Building Inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 45 days after receipt of the monies by the City Treasurer.

(e) Upon notification to the City Treasurer by the Chief Building Inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Treasurer shall return all such monies received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 45 days of the receipt of the monies from the insurance company or companies.

(1994 Code, § 7-407) (Ord. B-447, passed 11-20-2000)

**§ 8-808 REMOVAL OF STRUCTURE; EXCESS MONIES.**

If the Chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all monies in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(1994 Code, § 7-408) (Ord. B-447, passed 11-20-2000)

**§ 8-809 DISPOSITION OF FUNDS.**

If the Chief Building Inspector, with regard to a building or other structure damaged determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of § 8-805(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the Chief Building Inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the City Treasurer under § 8-805(a), the Chief Building Inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

(1994 Code, § 7-409) (Ord. B-447, passed 11-20-2000)

**§ 8-810 EFFECT UPON INSURANCE POLICIES.**

This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.  
(1994 Code, § 7-410) (Ord. B-447, passed 11-20-2000)

§ 8-811 INSURERS; LIABILITY.

Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article.  
(1994 Code, § 7-411) (Ord. B-447, passed 11-20-2000)