

CHAPTER VIII: HEALTH AND WELFARE

Article

- 1. HEALTH NUISANCES**
- 2. ENVIRONMENTAL CODE**
- 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY**
- 4. WEEDS**
- 5. MINIMUM HOUSING CODE**
- 6. RODENT CONTROL**
- 7. INSURANCE PROCEEDS FUND**

ARTICLE 1: HEALTH NUISANCES

Section

- 8-101 Nuisances unlawful; defined
- 8-102 Public officer
- 8-103 Complaints; inquiry and inspection
- 8-104 Right of entry
- 8-105 Order of violation
- 8-106 Same; contents
- 8-107 Failure to comply; penalty
- 8-108 Abatement
- 8-109 Hearing
- 8-110 Costs assessed

§ 8-101 NUISANCES UNLAWFUL; DEFINED.

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

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

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

(c) Any place or structure or substance 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;

Scranton - Health and Welfare

(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) (2005 Code, § 8-201)

§ 8-102 PUBLIC OFFICER.

The person designated by the city shall designate a public officer to be charged with the administration and enforcement of this article.
(2005 Code, § 8-202)

§ 8-103 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Board of Health, Chief of Police, or the Fire Chief. The public officer may make such inquiry and inspection when he or she observes conditions that appear to constitute a nuisance. Upon making any inquiry and inspection, the public officer shall make a written report of findings.
(2005 Code, § 8-203)

§ 8-104 RIGHT OF ENTRY.

The public officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for the purpose of making inquiry and inspection to determine if a nuisance exists.
(2005 Code, § 8-204)

§ 8-105 ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property, or any other person, corporation, partnership, or association found by the public officer to be in violation of § 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 non-resident, 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 non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(K.S.A. 12-1617e) (2005 Code, § 8-205)

§ 8-106 SAME; CONTENTS.

(a) The order shall state the condition(s) that is (are) in violation of § 8-101. The order shall also inform the person, corporation, partnership, or association that:

(1) He, she, or they shall have ten days from the receipt of the order to abate the condition(s) in violation of § 8-101; provided, however, that the governing body (or its designee named in § 8-105) 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 § 8-101; or

(2) He, she, or they have ten days from the receipt of the order, plus any additional time granted under division (a)(1) above, to request a hearing before the governing body or its designated representative of the matter as provided by § 8-109.

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

(K.S.A. 12-1617e) (2005 Code, § 8-206)

§ 8-107 FAILURE TO COMPLY; PENALTY.

Should the person, corporation, partnership, or association fail to comply with the order to abate the nuisance or request a hearing, the public officer may file a complaint in the Municipal Court of the city against such person, corporation, partnership, or association and upon conviction of any violation of provisions of § 8-101, 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.

(2005 Code, § 8-207)

§ 8-108 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-107, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to § 8-105 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in § 8-106, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 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 § 8-110. 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.

(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 non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(2005 Code, § 8-208)

§ 8-109 HEARING.

If a hearing is requested within the ten-day-period as provided in § 8-106, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request 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 § 8-108.

(2005 Code, § 8-209)

§ 8-210 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-108, 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) (2005 Code, § 8-210)

ARTICLE 2: ENVIRONMENTAL CODE

Section

8-201	Title
8-202	Legislative finding of fact
8-203	Purpose
8-204	Rules of construction
8-205	Definitions
8-206	Public officer
8-207	Enforcement standards
8-208	Unlawful acts
8-209	Order of violation
8-210	Penalty
8-211	Abatement
8-212	Hearing
8-213	Appeals
8-214	Costs assessed
8-215	Construction

§ 8-201 TITLE.

This article shall be known as the "Environmental Code".

§ 8-202 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; uncleanness; unsightly stored or parked material, equipment, supplies, machinery, vehicles, or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood, and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety, and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided.

§ 8-203 PURPOSE.

The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial, and residential neighborhoods in this city by outlawing conditions which are

injurious to the health, safety, welfare, or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof.

§ 8-204 RULES OF CONSTRUCTION.

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

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

§ 8-205 DEFINITIONS.

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

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

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

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

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

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

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

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

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

REFUSE. Garbage and trash.

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

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

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

WEATHERED. Deterioration caused by exposure to the elements.

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

§ 8-206 PUBLIC OFFICER.

The person designated by the city shall designate a public officer to be charged with the administration and enforcement of this article.

§ 8-207 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 § 8-208, but shall not include conditions that are not readily visible from any public place or from any surrounding private property.

§ 8-208 UNLAWFUL ACTS.

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

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

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

(2) Abandoned motor vehicles;

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

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

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

(1) Exteriors of any structure;

(2) Exteriors of any accessory structure; or

(3) Fences, walls, or retaining walls.

§ 8-209 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 § 8-208 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 non-resident, 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 non-resident, 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 § 8-212 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) Failure to alleviate the condition or to request a hearing may result in prosecution under § 8-210 and/or abatement of the condition by the city according to § 8-211 with the costs assessed against the property under § 8-214.
(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 § 8-208, provided however, that such person shall first have been sent an order of violation as provided in § 8-209 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 § 8-209. Upon such complaint in the Municipal Court, any person found to be in violation of § 8-208 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist.

§ 8-211 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-210, 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 § 8-209 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in § 8-209, 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 § 8-214.

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

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested; or

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

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

§ 8-212 HEARING.

If a hearing is requested within the ten-day period as provided in § 8-209, 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 § 8-211.

§ 8-213 APPEALS.

Any person affected by any determination of the governing body under §§ 8-211 and 8-212 may appeal such determination in the manner provided by K.S.A. 60-2101.

§ 8-214 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-211, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

§ 8-215 CONSTRUCTION.

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

ARTICLE 3: 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
- 8-307 Order of violation
- 8-308 Same; contents
- 8-309 Failure to comply; penalty
- 8-310 Abatement
- 8-311 Disposition of vehicle; recovery of vehicle
- 8-312 Hearing
- 8-313 Costs assessed
- 8-314 Antique or special interest vehicles

§ 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.

(2005 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.
(2005 Code, § 8-302)

§ 8-303 NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS.

(a) It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

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

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

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

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

(c) 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 (c)(3) shall be construed to authorize the maintenance of a public nuisance.

(2005 Code, § 8-303)

§ 8-304 PUBLIC OFFICER.

The person designated by the city shall designate a public officer to be charged with the administration and enforcement of this article.
(2005 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.
(2005 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.
(2005 Code, § 8-306)

§ 8-307 ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property, or any other person, corporation, partnership, or association found by the public officer to be in violation of § 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a non-resident, 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 non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(K.S.A. 12-1617e) (2005 Code, § 8-307)

§ 8-308 SAME; CONTENTS.

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

(b) 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.

(2005 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.

(2005 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) 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. 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) Service by certified mail, return receipt requested; or

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

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

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

(2005 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.

(2005 Code, § 8-311)

§ 8-312 HEARING.

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. 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.

(2005 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.
(2005 Code, § 8-313)

§ 8-314 ANTIQUE OR SPECIAL INTEREST VEHICLES.

An antique or special interest vehicle kept or maintained on private property as an abandoned vehicle shall be subject to the provisions of this article and considered to be an abandoned vehicle unless the owner or collector thereof shall:

(a) Completely enclose such vehicle within a lawful and aesthetically pleasing wood, brick, or stone fence so as not to be visible from the main-traveled way of any adjoining street or highway; and

(b) Keep and maintain such vehicle on racks or blocks with at least 18 inches of clearance between the bottom of the vehicle and the ground so as to prevent rodent harborage and breeding.
(2005 Code, § 8-314) (Ord. 490, passed - -)

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 Continuing violation
- 8-409 Prosecution for violation

§ 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.

(2005 Code, § 8-401)

§ 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 that may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds that bear or may bear seeds of a downy or wingy nature;

(4) Weeds that are located in an area that harbors rats, insects, animals, reptiles, or any other creature that either may or does constitute a menace to health, public safety, or welfare; or

(5) Weeds and grasses on or about residential property that, 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.

(2005 Code, § 8-402)

§ 8-403 PUBLIC OFFICER; NOTICE TO REMOVE.

(a) The governing body shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant, or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a non-resident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.

(b) The notice to be given hereunder shall state:

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

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

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

(4) That if the owner, occupant, or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time, the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant, or agent in charge of the property;

(5) That the owner, occupant, or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) That no further notice will be given during the next 14 months prior to the removal of weeds from the property by city officers or employees; and

(7) That the public officer should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of the title to property subsequent to the giving of notice pursuant to this section, the city may continue to recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property, unless the former landowner provides notice of the violation to the new record owner of title to such property and the city's public officer, said notice stating that abatement will continue and will be charged to the property pursuant to § 8-404, unless the new owner shall provide the city with a statement of intent to maintain the property.

(K.S.A. 12-1617f) (2005 Code, § 8-403) (Ord. 625, passed 8-16-2011)

§ 8-404 ABATEMENT; ASSESSMENT OF COSTS.

(a) If the owner, occupant, or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified § 8-403, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including postage, required by this section. This amount may be assessed monthly or on an annual basis, at the discretion of the city.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 12-1617f) (2005 Code, § 8-404) (Ord. 625, passed 8-16-2011)

§ 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.

(2005 Code, § 8-405)

§ 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. (2005 Code, § 8-406)

§ 8-407 NOXIOUS WEEDS.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of K.S.A. Chapter 2, Article 13, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), Johnson grass (*Sorghum halepense*), and sericea lespedeza (*Lespedeza cuneata*). (K.S.A. 2-1314) (2005 Code, § 8-407)

§ 8-408 CONTINUING VIOLATION.

If notice has been provided to an owner, occupant, or agent of a property, these properties are found to be in violation of this article, and the public officer has been required to abate the conditions under § 8-404 for failure to comply with said notice, the violation shall be considered to be continuing in nature, and the public officer or any other agent or employee of the city may enter the property to further abate weed growth. The right of entry and abatement shall continue for 14 months from the original notice, and shall entitle the city to abate the condition irrespective of the height of any weeds or grasses on the property. This right of entry can only be terminated by payment of all past due and owing assessments against the property, and a statement of intent from the owner that the owner will maintain the property.

(Ord. 625, passed 8-16-2011)

§ 8-409 PROSECUTION FOR VIOLATION.

If an owner, agent, lessee, tenant, or other person, after notice under § 8-403, and abatement under § 8-404, either:

- (a) Fails to pay any costs assessed by this article;
- (b) Has a continuing violation under § 8-408 of more than three months duration; or

(c) Files a statement of intent yet fails to maintain said property so that another notice pursuant to § 8-403 is necessary, the same shall be considered a public offense subject to prosecution and penalties may be assessed by the Municipal Court pursuant to § 1-116 of this code.

(Ord. 625, passed 8-16-2011)

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 non-residential)
- 8-510 Designation of blighted buildings and premises (non-residential)
- 8-511 Inspection of buildings and 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" or "this article".
(2005 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 non-residential, shall conform to the requirements of this Code.
(2005 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 non-residential structures;

(c) Determines the responsibilities of owners, operators and occupants; and

(d) Provides for the administration and enforcement thereof.

(2005 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** 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 non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

PUBLIC OFFICER. The person designated by the city.

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.

(A) **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.

(B) **TRASH (COMBUSTIBLE).** For the purpose of this article, **COMBUSTIBLE TRASH** shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

(C) **TRASH (NON-COMBUSTIBLE).** For the purpose of this article, **NON-COMBUSTIBLE TRASH** shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.

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

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

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

(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".
(2005 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.

(2005 Code, § 8-505)

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

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, that does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit.

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

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

(c) *Basement dwelling units.* The use of basements or cellars for dwelling units is prohibited unless they comply with division (r) 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.

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

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

Scranton - Health and Welfare

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

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

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

(g) *Entrances.*

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

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

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

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

(j) *Heating.* Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of 70°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.

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

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

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

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

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

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

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

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

(s) *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.

(t) *Windows and doors.* Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.
(2005 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.

(2005 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) *Determination of fitness.* 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 to consider.* Such conditions may include the following without limitation:

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

(2) Lack of:

(i) Adequate ventilation;

(ii) Light;

(iii) Cleanliness; and

(iv) Sanitary facilities.

(3) Dilapidation;

(4) Disrepair;

(5) Structural defects;

(6) Overcrowding;

(7) Inadequate ingress and egress;

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

(2005 Code, § 8-508)

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

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

(a) *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.
(2005 Code, § 8-509)

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

(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 non-residential buildings and premises.

(b) *Notice of violation.* Procedures of notification shall follow those prescribed in § 8-512.
(2005 Code, § 8-510)

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

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

(b) The public officer is not limited by the conditions in 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.

(2005 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) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the public officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing.
(2005 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.
(2005 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.

(2005 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. (2005 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 of the Code.

(b) The cost of demolition by a public officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located and the City Clerk at the time of certifying other city taxes shall certify the unpaid portion of the aforesaid costs and the County Clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the structure is removed or demolished by the public officer, he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (2005 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. (2005 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.

(2005 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.

(2005 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. (2005 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. (2005 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. (2005 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. (2005 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. (2005 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.

(2005 Code, § 8-606)

§ 8-607 CONDITIONS CONDUCTIVE TO HARBORAGE OF RATS.

(a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

(b) It shall be unlawful for any person to place, leave, dump, or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.

(c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone, or similar materials that may be permitted to remain thereon and that are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.

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

(2005 Code, § 8-607)

§ 8-608 INSPECTIONS.

The person designated by the city 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.

(2005 Code, § 8-608)

ARTICLE 7: INSURANCE PROCEEDS FUND

Section

- 8-701 Scope and application
- 8-702 Lien created
- 8-703 Same; encumbrances
- 8-704 Same; pro rata basis
- 8-705 Procedure
- 8-706 Fund created; deposit of moneys
- 8-707 Building Inspector; investigation, removal of structure
- 8-708 Removal of structure; excess moneys
- 8-709 Same; disposition of funds
- 8-710 Effect upon insurance policies
- 8-711 Insurers; liability
- 8-712 Purpose
- 8-713 Standards
- 8-714 Prohibition generally

§ 8-701 SCOPE AND APPLICATION.

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, 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.

(2005 Code, § 8-801)

§ 8-702 LIEN CREATED.

The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, 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. (2005 Code, § 8-802)

§ 8-703 SAME; ENCUMBRANCES.

Prior to final settlement on any claim covered by § 8-702, the insurer or insurers shall contact the County Treasurer 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. (2005 Code, § 8-803)

§ 8-704 SAME; PRO RATA BASIS.

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (2005 Code, § 8-804)

§ 8-705 PROCEDURE.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75% 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.

(2005 Code, § 8-805)

§ 8-706 FUND CREATED; DEPOSIT OF MONEYS.

The City Treasurer is hereby authorized and shall create a fund to be known as the Insurance Proceeds Fund. All 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.
(2005 Code, § 8-806)

§ 8-707 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.
(2005 Code, § 8-807)

§ 8-708 REMOVAL OF STRUCTURE; EXCESS MONEYS.

If the Chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all 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.
(2005 Code, § 8-808)

§ 8-709 SAME; DISPOSITION OF FUNDS.

If the Chief Building Inspector, with regard to a building or other structure damaged determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of § 8-705(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the

insurance proceeds, the Chief Building Inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the City Treasurer under § 8-705(a), the Chief Building Inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.
(2005 Code, § 8-809)

§ 8-710 EFFECT UPON INSURANCE POLICIES.

This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
(2005 Code, § 8-810)

§ 8-711 INSURERS; LIABILITY.

Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article.
(2005 Code, § 8-811)

§ 8-712 PURPOSE.

It is found and declared that:

(a) The making and creation of loud, unnecessary, or unusual noises within the limits of the city is a condition which has existed for some time and the extent and volume of such noises is increasing;

(b) The making, creation, or maintenance of such loud, unnecessary, unnatural, or unusual noises which are prolonged, unusual, and unnatural in their time, place, and use affect and are a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the city; and

(c) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public prohibitions hereinafter contained and enacted are in pursuance of, and for the purpose of, securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity and the peace and quiet of the city and its inhabitants.

(2005 Code, § 8-701) (Ord. 392-801, passed - -)

§ 8-713 STANDARDS.

The standards which shall be considered in determining whether a violation of this article exists shall include, but shall not be limited to the following:

(a) The volume of the noise;

- (b) The intensity of the noise;
 - (c) Whether the nature of the noise is usual or unusual;
 - (d) Whether the origin of the noise is natural or unnatural;
 - (e) The volume and intensity of the background noise, if any;
 - (f) The proximity of the noise to residential sleeping facilities;
 - (g) The nature and zoning of the area within which the noise emanates;
 - (h) The density of the inhabitation of the area within which the noise emanates;
 - (i) The time of the day or night the noise occurs;
 - (j) The duration of the noise;
 - (k) Whether the noise is recurrent, intermittent, or constant; and
 - (l) Whether the noise is produced by a commercial or noncommercial activity.
- (2005 Code, § 8-702) (Ord. 392-802, passed - -)

§ 8-714 PROHIBITION GENERALLY.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city. The provisions of this article shall not apply to such occasional and infrequent uses as authorized by special permit of the City Council upon showing by an applicant and determination by the City Council that the proposed use is not detrimental to public health, safety, or welfare.

(2005 Code, § 8-703) (Ord. 392-803, passed - -)

