

CHAPTER 8 HEALTH AND WELFARE

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ARTICLE 1 CITY HEALTH OFFICER

- 8-101 CITY HEALTH OFFICER; DUTIES- The county health officer may issue the duties of the city health officer. The city health officer shall:
- (a) Cause health investigations and inspections to be made as required by the laws of Kansas and of the city;
 - (b) Make recommendations to the board respecting the improvement of health of the inhabitants of the city;
 - (c) Make all health reports required by the State Department of Health and Environment, Division of Health;
 - (d) Prepare an annual health report of the city for submission to the governing body;
 - (e) Perform such other duties as may be required of him or her under the laws of the State of Kansas or of the city.
- (Code 1994; Code 2003; Code 2015)

ARTICLE 2 HEALTH NUISANCES

- 8-201 NUISANCES UNLAWFUL; DEFINED- It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
 - (b) All dead animals not removed within 24 hours after death;
 - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
 - (d) All stagnant ponds or pools of water;

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

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

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

(h) Any fence, structure, thing or substance placed upon or being upon any sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.

(K.S.A. 21-4106:4107; Code 1978, 7-301; Code 1994; Code 2003; Code 2015)

8-202 PUBLIC OFFICER-The mayor with consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.
(Code 1994; Code 2003; Code 2015)

8-203 COMPLAINTS; INQUIRY AND INSPECTION- The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.
(Code 1978, 7-302; Code 1994; Code 2003; Code 2015)

8-204 RIGHT OF ENTRY-The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.
(Code 1994; Code 2003; Code 2015)

8-205 ORDER OF VIOLATION- (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 1 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

(K.S.A. 12-1617e; Code 2003; Code 2015)

8-206 SAME; CONTENTS-The order shall state the conditions(s) which is (are) in violation of Section 8-201. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 10 days from the date of serving the order to abate the conditions(s) in violation of Section 8-201; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208.

(Code 1978, 7-302; Code 1994; Code 2003; Code 2015)

8-207 FAILURE TO COMPLY; PENALTY- Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 8-201, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(Code 1994; Code 2003; Code 2015)

8-208 ABATEMENT- In addition to, or as an alternative to prosecution as provided in Section 8-207, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been served pursuant to Section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the

public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

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

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

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

(Code 1978, 7-302; Code 1994; *Revised for* Code 2003; Code 2015)

8-209

HEARING- If a hearing is requested within the 10 day period as provided in Section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in Section 8-208.

(Code 1994; Code 2003; Code 2015)

8-210 COSTS ASSESSED- If the city abates or removes the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.
(K.S.A. 12-1,115; Code 2003; Code 2015)

ARTICLE 2A ENVIRONMENTAL CODE

8-2A01 TITLE- This article shall be known as the "Environmental Code."
(Code 1994; Code 2003; Code 2015)

8-2A02 LEGISLATIVE FINDING OF FACT- The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided.
(Code 1994; Code 2003; Code 2015)

8-2A03 PURPOSE- The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the

health, safety, welfare or aesthetic characteristics of the neighborhood and to provide for the administration and enforcement thereof.
(Code 1994; Code 2003; Code 2015)

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

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

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

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

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

(5) Shall-The word shall is mandatory and not permissive.
(Code 1994; Code 2003; Code 2015)

8-2A05 DEFINITIONS- The words and phrases listed below when used in this article shall have the following meanings:

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

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

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

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

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

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

(7) Person- any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control

or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

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

(9) Refuse- garbage and trash.

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

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

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

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

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

(Code 1994; Code 2003; Code 2015)

8-2A06 PUBLIC OFFICER- The mayor with consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.
(Code 1994; Code 2003; Code 2015)

8-2A07 ENFORCEMENT STANDARDS- No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under Section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property.
(Code 1994; Code 2003; Code 2015)

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

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

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

(2) abandoned motor vehicles; or

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

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

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

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 1994; Code 2003; Code 2015)

8-2A09

ORDER OF VIOLATION- (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 1 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

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

(b) That the person in violation shall have:

(1) 15 days from the date of mailing of the notice or receipt by personal service to alleviate the exterior conditions (yard) violations; and/or

(2) 45 days from the date of the mailing of the notice or receipt by personal service to alleviate the exterior conditions (structure) violation;

(3) 10 days from the date of the mailing of the notice or receipt of personal service to request, as provided in Section 8-2A12 a hearing before the

governing body on the matter; and

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

(Code 1994; K.S.A. 12-1617e; Amended for Code 2003; Code 2015)

8-2A10

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

(Code 1994; Amended for Code 2003; Code 2015)

8-2A11

ABATEMENT- In addition to, or as an alternative to, prosecution as provided in Section 8-2A10, the public officer may seek to remedy violations of this article in the following manner: If a person to whom an order has been provided pursuant to Section 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-2A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property, lot or parcel of ground on which the nuisance was located as provided in Section 8-2A14.

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

(a) Personal service upon the person in violation;

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

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city

newspaper and by posting a copy of the resolution on the premises where such conditions exist.

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

(Code 1994; Amended for Code 2003; Code 2015)

8-2A12

HEARING BEFORE GOVERNING BODY- If a hearing is requested within the 10 day period as provided in Section 8-2A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible. after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in Section 8-2A11.

(Code 1994; Amended for Code 2003; Code 2015)

8-2A13

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

(Code 1994; Code 2003; Code 2015)

8-2A14

COSTS ASSESSED- If the city abates or removes the nuisance pursuant to Section 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or

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

(K.S.A. 12-1,115; Code 2013; Code 2015)

8-2A15

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

(Code 1994; Code 2003; Code 2015)

ARTICLE 3 JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

8-301

FINDINGS OF GOVERNING BODY- The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

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

(b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;

(c) Are a ready source of fire and explosion;

(d) Encourage pilfering and theft;

(e) Constitute a blighting influence upon the area in which they are located.

(f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(Ord. 443, Sec. 1; Code 1994; Code 2003; Code 2015)

8-302

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

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

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

(Ord. 443, Sec. 2; Code 1994; Code 2003; Code 2015)

8-303

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

(a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinances; 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 vehicle;

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

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

(b) The provision of this section shall not apply to:

(1) Any motor vehicle which is enclosed in a garage or other building;

(2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less;

(3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

(Ord. 443, Sec. 3; Code 1994; Code 2003; Code 2015)

8-304

PUBLIC OFFICER- The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.

(Ord. 443, Sec. 5; Code 1994; Code 2003; Code 2015)

8-305

COMPLAINTS; INQUIRY AND INSPECTION- The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a

nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

(Ord. 443, Sec. 5; Code 1994; Code 2003; Code 2015)

8-306 RIGHT OF ENTRY- The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry, and inspection to determine if a nuisance exists.

(Code 2003; Code 2015)

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

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

(K.S.A. 12-1617e; Code 2003; Code 2015)

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

(a) He, she or they shall have 10 days from the date of serving the order to abate the condition(s) in violation of Section 8-303; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 8-312;

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

(Ord. 443, Sec. 8; Code 1994; Code 2003; Code 2015)

8-309 FAILURE TO COMPLY; PENALTY- Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of Section 8-303, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 443, Sec. 9; Code 1994; Code 2003; Code 2015)

8-310 ABATEMENT- In addition to, or as an alternative to prosecution as provided in Section 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to Section 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in Section 8-308, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

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

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

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

(Code 2003; Code 2015)

- 8-311 DISPOSITION OF VEHICLE- Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be provided by K.S.A. Supp. 8-1102, as amended.
(Ord. 443, Sec 11; Code 1994; Code 2003; Code 2015)
- 8-312 HEARING- If a hearing is requested within the 10 day period as provided in Section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in Section 8-310.
(Ord. 443, Sc. 12; Code 1994; Code 2003; Code 2015)
- 8-313 COSTS ASSESSED- If the city abates or removes the nuisance pursuant to Section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.
(Code 2003; Code 2015)

Article 4 WEEDS

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

(Ord. 451, Sec. 1; Code 1994; Code 2003; Code 2015)

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

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which bear, or may bear, seeds of a downy or wingy nature;

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

(e) Weeds and grasses on or about residential property which, because of its height, has blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(Ord. 451, Sec. 2; Code 1994; Code 2003; Code 2015)

8-403 PUBLIC OFFICER; NOTICE TO REMOVE- (a) The mayor with the consent of the council, shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified mail, 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 charge of the property is ordered to cut the weeds within 10 days of the receipt of 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 notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper;

(4) that if the owner, occupant or agent in control of the property does not cut 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 control 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 shall be given during the current calendar year prior to the removal of weeds from the property; and,

(7) that the public officer should be contacted if there are any questions regarding the order; and,

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section. (Code 2003; Code 2015)

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 Section 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 any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be

collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may, pursue collection both by levying a special assessment and in the manner provided by 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; Code 2003; Code 2015)

8-405 RIGHT OF ENTRY- The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article.
(Ord. 451, Sec. 5; Code 1994; Code 2003; Code 2015)

8-406 UNLAWFUL INTERFERENCE- It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation.
(Ord. 451, Sec. 6; Code 1994; Code 2003; Code 2015)

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

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

(K.S.A. 2-1314; Ord. 451, Sec. 7; Code 1994; Code 2003; Code 2015)

ARTICLE 5 MINIMUM HOUSING CODE

8-501 TITLE- This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code."
(Code 1994; Code 2003; Code 2015)

8-501A UNIFORM HOUSING CODE INCORPORATED- There is hereby adopted and incorporated by reference, for the purpose of establishing minimum standards

to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location and maintenance of all residential buildings and situations within the city, the Uniform Housing Code, 1997 Edition as recommended by the International Conference of Building Officials, such code being made as a part of the ordinances and code of the city as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012 including any amendments thereto. No fewer than three copies of the Uniform Housing Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of St. Francis," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

Any person violating any provision of such code shall be punished as provided in section 1-116 of this code.
(Code 2003; Code 2015)

8-502 GENERAL- Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code.
(Code 1994; Code 2003; Code 2015)

8-503 DECLARATION OF POLICY- The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:

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

(Code 1994; Code 2003; Code 2015)

DEFINITIONS- The following definitions shall apply to the enforcement of this code:

(a) Basement shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(b) Cellar shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(c) Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.

(d) Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.

(e) Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

(f) Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.

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

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

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

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

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

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

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

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

(o) Public Officer shall mean the building inspector/city superintendent.

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

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

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

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

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

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

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

(t) Supplied shall mean anything constructed or erected on the ground or attached to something having a location on the ground.

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

(v) Words-Meanings Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," are used in this ordinance, they

shall be construed as though they were followed by the words "or any part thereof."

(Code 1994; Code 2003; Code 2015)

8-505

DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES- (a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by Sections 8-508:509.

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

(c) If receptacles are not provided by the owner, or city, 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 vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

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

(Code 1994; Code 2003; Code 2015)

8-506

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

(a) Attached Garages or Non-dwelling Areas- All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the

ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

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

(c) Basement Dwelling Units- The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied prior to January 1, 1994 and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) Windows and Doors- Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.
(Code 1994; Code 2003; Code 2015)

8-507

MAINTENANCE AND REPAIR; DWELLINGS 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 ceiling shall be kept in good repair and usable condition.
(Code 1994; Code 2003; Code 2015)

8-508

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

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

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

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

(2) Lack of:

(i) Adequate ventilation.

(ii) Light.

(iii) Cleanliness.

(iv) Sanitary facilities.

(3) Dilapidation.

(4) Disrepair.

(5) Structural defects.

(6) Overcrowding.

(7) Inadequate ingress and egress.

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

(9) Air Pollution.

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

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

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

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

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

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

(Code 1994; Code 2003; Code 2015)

8-509

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

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

(1) Dead trees or other unsightly natural growth.

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

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

(b) Notice of Violation Procedures as outlined in Section 8-512 are applicable hereto.

(Code 1994; Code 2003; Code 2015)

8-510

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

(b) Notice of Violation Procedures of notification shall follow those prescribed in Section 8-512.
(Code 1994; Code 2003; Code 2015)

8-511

INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES-

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

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

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

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

(Code 1994; Code 2003; Code 2015)

8-512

NOTICE OF VIOLATIONS; PROCEDURES- (a) Informal Discussion.

Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) Formal Hearing If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

(1) Shall be in writing.

(2) Shall list the violations alleged to exist or to have been committed.

(3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit

or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary.

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

(Code 1994; Code 2003; Code 2015)

8-513 PUBLIC OFFICER: AUTHORITY- For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises.
(Code 1994; Code 2003; Code 2015)

8-514 GOVERNING BODY; AUTHORITY- The governing body is hereby authorized:

(a) To Informally Review all alleged violations as provided in section 8- 512(a) prior to notification prescribed in Section 8-512(b).

(b) To Take Action as prescribed in Section 8-512(b)

(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in Section 8-518.

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

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

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

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

(Code 1994; Code 2003; Code 2015)

8-515 ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH- At the time of the placarding and order to vacate specified by Section 8-508(c) hereof, the public officer shall also issue and cause to be served upon the owner a notice

advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlines in Section 8-512.
(Code 1994; Code 2003; Code 2015)

8-516

DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS-

(a) Failure to Comply with the order under Section 8-515 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in Section 8- 509 of the code.

(b) The Cost of Demolition by a Public Officer shall be a lien upon the property upon which the cost was incurred. 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. The city clerk at the time of certifying other city taxes shall certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

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

(Code 1994; Code 2003; Code 2015)

8-517

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

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

(Code 1994; Code 2003; Code 2015)

8-518

GOVERNING BODY; APPEALS-(a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving

notice of the decision from the public officer, as provided in Section 8-512(b), Such protest and request for a hearing shall be filed with the office of the city clerk.

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

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

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

(e) Except where an immediate hazard exists as described in Section 8-512 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.

(Code 1994; Code 2003; Code 2015)

8-519

RIGHT OF PETITION- After exhausting the remedy provided in Section 8-518, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final, petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order.

(Code 1994; Code 2003; Code 2015)

ARTICLE 6 RODENT CONTROL

8-601

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

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

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

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

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

(e) Rodent-stoppage- A form of rodent-proofing to prevent the ingress of rodents 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 rodents from the ground by climbing or by burrowing, with material or equipment impervious to rodent-gnawing.
(Code 1994; Code 2003; Code 2015)

8-602 BUILDING MAINTENANCE- All buildings and structures located within the present or future boundaries of the city shall be rodent-stopped, freed of rodents and maintained in a rodent-stopped and rodent-free condition.
(Code 1994; Code 2003; Code 2015)

8-603 NOTICE TO RODENT-STOP- Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rodent-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body.
(Code 1994; Code 2003; Code 2015)

8-604 FAILURE TO COMPLY; WHEN CITY TO DO WORK- 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 rodent-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 therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rodent-stoppage.
(Code 1994; Code 2003; Code 2015)

8-605 REPLACE RODENT-STOPPAGE- It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rodent-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 rodents.
(Code 1994; Code 2003; Code 2015)

8-606

NOTICE TO ERADICATE RODENTS-Whenever the governing body notifies in writing the owner of any building or structure theretofore rodent-stopped as herein above defined, that there is evidence of rodent infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rodents. Unless suitable measures for freeing the building or structure of rodents 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 rodents 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 therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures.

(Code 1994; Code 2003; Code 2015)

8-607

CONDITIONS CONDUCIVE TO HARBORAGE OF RODENTS- (a) All food and feed kept within the city for feeding animals shall be kept and stored in rodent- free and rodent-proof containers, compartments, or rooms unless kept in a rodent-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 rodents.

(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, stones or similar materials that may be permitted to remain thereon and which are rodent harborage, 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 rodents 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 rodent harborage as may be necessary in order to facilitate the eradication of rodents in a reasonable time and thereby to reduce the cost of such eradication.

(Code 1994; Code 2003; Code 2015)

8-608

INSPECTIONS- The building inspector is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article.

(Code 1994; Code 2003; Code 2015)

ARTICLE 7 TREE BOARD AND REGULATIONS

- 8-701 TREE BOARD ESTABLISHED- There is created and established a City Tree Board, which shall consist of three (3) Council Members of the City of St. Francis, Kansas, who shall serve on the tree board for a term as appointed from year to year by the mayor with the advice and consent of the city council.
(Ord. 462, passed 8-2-1994; Code 2003; Code 2015)
- 8-702 TREE BOARD; POWERS- The tree board shall have the power to promulgate rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges, and other plants upon the public right of way of any street, alley, sidewalk, or other public place in the city subject to the approval of the city council. Such rules, regulations and specifications shall be available to the public through the office of the city clerk.
(Ord. 462, passed 8-2-1994; Code 2003; Code 2015)
- 8-703 MAINTENANCE OF TREES AND SHRUBS-It shall be the duty of the owner of property abutting the right of way of any street, alley, sidewalk or other public place to maintain and care for all trees and shrubs on such abutting right of way. The tree board shall have the power to require any such property owner to perform such maintenance on any such tree or shrub on the right of way abutting such owner's property as may be necessary. The tree board shall further have the power to require any property owner to trim, remove or protect any tree or shrub on such owner's property which may project beyond the property line onto or over the right of way abutting the same. Trees and shrubs must not obstruct the clear view at any intersection. A clear view is defined as 150 feet in both directions of the intersecting road from a point of 10 feet from the beginning of the intersection. The tree board shall cause a notice requiring such work to be performed to be served upon the property owner in accordance with Section 8-710 and such work shall be done within a reasonable time specified in this notice. Nothing in this chapter shall be construed as requiring the owner of the property to trim any trees or shrubs when such trimming is required on public ways because of city utility lines, traffic control signs or devices and it shall be the duty of the city to do any trimming on public ways as required for such utilities or signs or traffic control devices.
(Ord. 462, passed 8-2-1994; Amended for Code 2003; Code 2015)
- 8-704 REMOVAL OF DEAD OR DANGEROUS TREES AND ROOTS-It shall be the duty of the owner of any property abutting the right of way of any street, alley, sidewalk or other public place to remove any dead or dying trees, limbs or roots that are heaving sidewalks or that are dangerous to life, limb or property located upon the premises of such owner or upon the right of way of any street,

alley, sidewalk or other public place abutting the property of such owner of property. The tree board shall give notice to the property owner for such removal when required in accordance with Section 8-709. Such work shall be performed within such reasonable time as may be specified in such notice.
(Ord. 462, passed 8-2-1994; Amended for Code 2003; Code 2015)

8-705 PLANTING ON UNDERGROUND UTILITY LINES- It shall be the duty of the owner of any property to ensure that no trees or shrubs are planted or allowed to grow on or over any underground utility lines in the city.
(Code 2003; Code 2015)

8-706 CONTROL OF DISEASE OR INSECT INFESTATION- Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the city, or which is capable of causing an epidemic spread of communicable disease or insect infestation such as Dutch Elm Disease, the tree board shall at once cause written notice to be served upon the owner of the property upon which such diseased tree or trees are situated or the property abutting the right of way of any street, alley, sidewalk or other public place upon which such diseased tree or trees are situated, which notice shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified in such notice.
(Ord. 462, passed 8-2-1994; 8-705; Code 2003; Code 2015)

8-707 COMPLIANCE WITH NOTICES-It shall be unlawful for any person to fail to comply with the requirements of any notice given pursuant to Sections 8-703, 8-704 and 8-706 of this chapter within the time specified in such notice.
(Ord. 462, passed 8-2-1994; 8-706; Code 2003; Code 2015)

8-708 APPEAL OF NOTICE- Any notice given by the tree board pursuant to Sections 8-703, 8-704, or 8-706 shall allow at least 30 days for the property owner to perform the work required after the time the notice is served on the property owner unless an extension is granted. During such period the property owner shall have the right to appeal the order of the tree board to the whole city council by filing with the city clerk a notice that the property owner desires to appeal from such order. Such appeal shall be submitted in writing to the city clerk within five (5) days from the date of the service of the order. If any property owner files a notice of appeal with the city clerk, the tree board shall schedule a hearing to consider such appeal within ten (10) days. Until a final and unanimous determination by the city council, the work required to be done by the tree board shall not be required and if the city council unanimously sustains all or any part of the order of the tree board, the city council shall then set the time within which the work required to be done shall be done.
(Ord. 462, passed 8-2-1994; 8-707; Code 2003; Code 2015)

8-709 DELIVERY OF NOTICE- Any notice authorized by Sections 8-703, 8-704, and 8-706 may be served by delivering a copy of such notice to the record owner of such property or by leaving a copy of such notice at such owner's usual place of abode with some member of his family over the age of 18 years. In case there is more than one owner of a property, a service upon any one owner shall be adequate service upon all co- owners. If the owner of any property cannot be found in the city, service may be made by mailing a copy thereof to such owner, postage pre-paid, certified mail, addressed to his last known address, and by posting a copy of such notice in a conspicuous place on the premises involved. Notice by mail shall be completed five (5) days after the date the notice is deposited in the mail and posted on the premises. (Ord. 462, passed 8-2-1994; 8-708; Code 2003; Code 2015)

8-710 FAILURE OF PROPERTY OWNER TO DO REQUIRED WORK- If any work required under Section 8-703, 8-704, and/or 8-706 is not accomplished within the time specified in the notice, the tree board shall cause the work to be done and the cost of the same shall be collected from the property owner. Any notice given pursuant to this Chapter shall state that if the work required is not done within the time specified, the city will cause the same to be done at the expense of the property owner. If the tree board causes the work to be done, it shall submit the cost thereof to the city clerk who shall send a statement in such amount to the property owner at his last known address. Any such statement shall be paid by the property owner within 30 days and any unpaid amount shall bear interest at the legal rate. If any property owner is unable to pay the cost of work within 30 days, he may enter into an agreement for the payment of the same in monthly installments over a period not to exceed three (3) years; and the unpaid cost shall by such agreement, be made a lien on the land of such property owner. Any unpaid balance due under such agreement shall bear interest at the legal rate. The agreement shall be filed in the Office of the Register of Deeds of Cheyenne County, Kansas. (Ord. 462, passed 8-2-1994; 8-709; Code 2003; Code 2015)

8-711 ASSESSMENT OF DELINQUENT COST- If any cost to do the required work remains unpaid and an agreement for the payment of the same is not entered into within thirty (30) days of the completion of the work, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the cost to the county clerk who shall extend the same on the tax rolls of the county. (Ord. 462, passed 8-2-1994; 8-710; Code 2003; Code 2015)

8-712 RIGHT OF ENTRY- In order to accomplish the purpose of this chapter, the tree board or its designated official is authorized to go upon any property in the city for the purpose of inspecting trees, shrubs and other plants.
(Ord. 462, passed 8-2-1994; 8-711; Code 2003; Code 2015)

8-713 FAILURE TO COMPLY; PENALTY- Should any person fail to comply with notice given pursuant to this notice or request a hearing, a city official may file a complaint in the Municipal Court of the City against such person and upon conviction of any violation of the provisions of this Article, said person may 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 the notice has been served shall constitute an additional or separate offence.
(Ord. 462, passed 8-2-1994; 8-712; Code 2003; Code 2015)