

CHAPTER VIII. HEALTH AND WELFARE

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ARTICLE 1. HEALTH NUISANCES

- 8-101. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
 - (b) All dead animals not removed within 24 hours after death;
 - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
 - (d) All stagnant ponds or pools of water;
 - (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
 - (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
 - (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
 - (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
- (K.S.A. 21-4106:4107; Code 1986)
- 8-102. 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 1986)

- 8-103. 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)
- 8-104. NOTICE OF VIOLATION. Any person, corporation, partnership or association found by the public officer to be in violation of section 8-101 shall be served a notice of such violation. The notice shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by certified mail, return receipt requested, to the last known address of the owner. (K.S.A. 12-1617e; Code 2003)
- 8-105. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-101. The notice shall also inform the person, corporation, partnership or association that
- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-101; or
 - (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-108;
 - (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-106 and/or abatement of the condition(s) by the city as provided by section 8-107. (Code 1986)
- 8-106. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-101, be fined in an amount not to exceed \$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 1986)
- 8-107. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-106, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-104 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-105, 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 8-109. A copy of the resolution shall be served upon the person in violation in one of the following ways:
- (a) Personal service upon the person in violation;
 - (b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
(Code 1986)

8-108. HEARING. If a hearing is requested within the 10 day period as provided in section 8-105, 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 8-107. (Code 1986)

8-109. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-107, 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. If the cost of the removal or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments 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)

ARTICLE 2. WEEDS

8-201. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Ord. 518, Sec. 1; Code 2003)

8-202. DEFINITIONS. Weeds as used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which bear or may bear seeds of a downy or wingy nature.
- (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
- (e) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(Ord. 518, Sec. 2; Code 2003)

8-203. PUBLIC OFFICER; NOTICE TO REMOVE. The mayor shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by certified mail, return receipt requested, or by personal service, once per calendar year. Such notice shall include the following:

- (a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
- (b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.
- (c) That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.
- (d) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.
- (e) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.
- (f) That no further notice shall be given prior to removal of weeds during the current calendar year.
- (g) That the public officer should be contacted if there are any questions regarding the order.

If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section. (Ord. 518, Sec. 3; Code 2003)

8-204. ABATEMENT; ASSESSMENT OF COSTS. (a) Upon the expiration of 10 days after receipt of the notice required by section 8-203, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-201, the public officer or an authorized assistant

shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by certified mail, return receipt requested, of the costs of cutting or removal incurred by the city. The city may also recover the costs of providing the notice, including postage. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

(c) If the cost of the removal or abatement is not paid within the 30-day period following receipt of the notice, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the weeds were so removed, and against such lots or parcels of land in front of or abutting on such street or alley on which such weeds were removed, and the city clerk, at the time of certifying other city taxes, shall certify the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 12-1617f; (Ord. 518, Sec. 4; Code 2003)

- 8-205. 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. 518, Sec. 5; Code 2003)
- 8-206. 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. 518, Sec. 6; Code 2003)
- 8-207. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.
- (b) For the purpose of this section, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*), and sericea lespedeza (*Lespedeza cuneata*). (K.S.A. 2-1314; Ord. 518, Sec. 1; Code 2003)

**ARTICLE 3. JUNKED MOTOR VEHICLES
ON PRIVATE PROPERTY**

8-301. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

- (a) Service as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
- (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
- (c) Are a ready source of fire and explosion;
- (d) Encourage pilfering and theft;
- (e) Constitute a blighting influence upon the area in which they are located;
- (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(Ord. 566, Sec. 1; Code 1992)

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

- (a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
- (b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

(Ord. 566, Sec. 2; Code 1992)

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

- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
- (b) The provisions of this section shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building;
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
 - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However,

nothing in this subsection shall be construed to authorize the maintenance of a public nuisance. (Ord. 566, Sec. 3; Code 1992)

8-304. PUBLIC OFFICER. The mayor with the consent of the governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 566, Sec. 4; Code 1992)

8-305. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 566, Sec. 5; Code 1992)

8-306. RIGHT OF ENTRY. It shall be a violation of this article to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 566, Sec. 6; Code 2003)

8-307. NOTICE. Any person found by the public officer to be in violation of section 8-303 shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Rossville, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. (Ord. 566, Sec. 7; Code 2003)

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

- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-303; or
- (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-312;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310.

(Ord. 566, Sec. 8; Code 1992)

8-309. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$500 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. 566, Sec. 9; Code 1992)

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

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

(a) Personal service upon the person in violation;

(b) Service by certified mail, return receipt requested.

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

(Ord. 566, Sec. 10; Code 1992)

8-311. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. 8-1102, as amended. (Ord. 566, Sec. 11; Code 1992)

8-312. HEARING. If a hearing is requested within the 10 day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-310. (Ord. 566, Sec. 12; Code 1992)

8-313. COSTS ASSESSED. If the city abates 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. If the cost of the removal or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special

assessments 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 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. (Ord. 566, Sec. 13; Code 2003)

ARTICLE 4. FAIR HOUSING

8-401. PURPOSE. The governing body of the city hereby declares it to be the public policy of the city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent, finance or obtain funding of real property without regard to race, color, sex, religion, national origin or ancestry. (Ord. 453, Sec. 1)

8-402. DEFINITIONS. (a) Person shall mean one or more individuals, partnerships, or other organizations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers.

(b) Unlawful Discriminatory Housing Practice shall mean any discrimination or segregation or separation against any person or group of persons because of race, color, sex, religion, national origin or ancestry, and shall include only those unlawful practices and acts as set forth in section 8-503 of this article.

(c) Housing Accommodations shall mean any building or portion thereof, whether such building or portion so constructed or is to be constructed, which is used or intended for use as the residence or sleeping place of one or more persons. Housing accommodations shall not mean or include:

(1) The rental of a dwelling or portion thereof, containing accommodations for no more than five families, one of which is occupied by the owner or his or her family at the time of the rental.

(2) The rental of rooms in a one-family dwelling to another person or persons by the owner or occupant of such accommodation in which he, she or members of his or her family reside.

(d) Owner shall mean and include the owner, lessee, sublessee, assignee, manager, agent, or other person, firm or corporation, having the right to sell, rent or lease any housing accommodations or real property within the corporate limits of the city.

(e) Real Estate Broker shall mean any person who, for a fee or other valuable consideration, sells, purchases, exchanges, rents, negotiates, offers or attempts to negotiate the sale, purchase, exchange or rental of housing accommodations or real property of another person.

(f) Real Estate Salesman or Agent shall mean any person employed by a real estate broker to perform, or to assist in the performance of, any or all of the functions of a real estate broker.

(g) Financial Institution shall mean any person regularly engaged in the business of lending money or guaranteeing loans on housing accommodations or real property.

(h) Real Property shall include all real estate, leaseholds, and any vacant land offered for sale or rent.
(Ord. 453, Sec. II)

8-403.

UNLAWFUL DISCRIMINATORY PRACTICES. It shall be an unlawful discriminatory housing practice:

(a) For the owner, real estate broker, real estate salesman, or employees or agent thereof:

(1) To refuse to sell, rent, assign, lease, or sublease, or offer for sale, rental, lease, assignment, or sublease, or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or portion thereof which is in fact listed or available for sale, rent, lease, or sublease to any person who has shown the financial ability to satisfy the terms and conditions of a sale, rental, assignment, lease, or sublease of the property, or to otherwise deny or withhold any housing accommodations or real property or any part or portion thereof to or from any person because of the race, color, sex, religion, national origin, or ancestry of such person.

(2) To discriminate against any person because of his or her race, color, sex, religion, national origin or ancestry in the terms, conditions or privileges of the sale, lease, rental, assignment or sublease of any housing accommodations or real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted, or mailed, any statement, advertisement, publication, or sign, or use any form of application for the purchase, rental, lease, assignment, or sublease of any housing accommodations or real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, sex, religion, national origin or ancestry or any intent to make any such limitation, specification or discrimination.

(b) For any person or financial institution to which application is made for financial assistance for the purchase, acquisition or construction of any housing accommodations or real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person because of the race, sex, color, religion, national origin or ancestry of such person or of prospective occupants or tenants of such housing accommodations or real property or part or portion thereof, in the granting, withholding, extending modifying, or renewing, or in the fixing of the rates, terms, conditions or provisions of any such financial assistance or in the extension of services in connection therewith; or

(2) To use any form of application for such financial assistance or to make any record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, creed, national origin, or ancestry, or any intent to make any such limitation, specification or discrimination.

(Ord. 453, Sec. III; Code 1984)

8-404.

EXEMPTIONS. Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated,

supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rentals or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. 453, Sec. IV)

8-405. FAIR HOUSING BOARD. Providing for the appointment of a Fair Housing Board.

(a) There is hereby created a Fair Housing Board whose membership shall consist of five members, one of whom shall hold office for one year, two for two years and two for three years. All subsequent terms upon expiration of the original appointment shall be for a three year term. The appointment of the members shall be made by the mayor of the city with the consent of the governing body. Roberts Rules of Order shall govern the conduct of the meeting of the board.

(b) Every complaint of a violation of this ordinance shall be referred to the Fair Housing Board. The Fair Housing Board shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at that time. If the Fair Housing Board, after investigation, finds there is no merit to the complaint, the same shall be dismissed. If the Fair Housing Board finds that there is merit to the complaint, in their opinion, then and in that event, the Fair Housing Board will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

(c) If the Fair Housing Board is unable to eliminate the alleged discriminatory practice by a conference and conciliation, then and in that event, the Fair Housing Board shall forward the complaint to the city attorney for handling. The final determination of whether or not to prosecute on the complaint shall be left to the city attorney.
(Ord. 453, Sec. V)

8-406. PENALTIES. (a) Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof may be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both so fined and imprisoned.

(b) Any person making false, malicious or unfounded accusations against any person under oath and under the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof may be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both so fined and imprisoned.
(Ord. 453, Sec. VI)

ARTICLE 5. INSURANCE PROCEEDS FUND

- 8-501. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Ord. 657, Sec. 1; Code 2003)
- 8-502. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Ord. 657, Sec. 2; Code 2003)
- 8-503. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-502, the insurer or insurers shall contact the county treasurer, Shawnee County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Shawnee County, Kansas. (Ord. 657, Sec. 3; Code 2003)
- 8-504. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Ord. 657, Sec. 4; Code 2003)
- 8-505. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.
- (b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article. (Ord. 657, Sec. 5; Code 2003)

8-506. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Ord. 657, Sec. 6; Code 2003)

8-507. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

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

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

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

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies. (Ord. 657, Sec. 3; Code 2003)

8-508. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Ord. 657, Sec. 8; Code 2003)

8-509. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-505(a) relating to

that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-505(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Ord. 657, Sec. 9; Code 2003)

8-510. EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Ord. 657, Sec. 10; Code 2003)

8-511. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Ord. 657, Sec. 11; Code 2003)