

CHAPTER VIII. HEALTH AND WELFARE

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ARTICLE 1. BOARD OF HEALTH

8-101. BOARD OF HEALTH CREATED. The board of health shall consist of a city health officer, who shall be a practicing doctor of medicine and two additional members who shall be members of the governing body. The city health officer and the two additional members of the board of health shall be appointed annually by the mayor at the first regular meeting of the governing body in April of each year, to serve for one year terms subject to confirmation by the city council; provided, that a member of the governing body appointed to the board of health shall have no right to vote for or against his or her own confirmation. The board shall adopt such rules and regulations as may be necessary to guide its operations. The city clerk shall be secretary of the board but shall have no vote. He or she shall preserve its records, rules and regulations and shall issue all orders and notices which may be required by ordinance or order of the board. (Code 1992)

8-102. CITY HEALTH OFFICER; DUTIES. The city health officer shall:

- (a) Cause health investigations and inspections to be made as required by the laws of 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 1992)

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 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 1992)
- 8-202. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. (Code 1992)
- 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 1992)
- 8-204. RIGHT OF ENTRY. It shall be a violation of this code to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 1992)

8-205. NOTICE. Any person, corporation, partnership or association found by the public officer to be in violation of section 8-201 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Allen County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. (K.S.A. 12-1617e; Code 1992)

8-206. SAME; CONTENTS. The notice shall state the condition(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 notice to abate the condition(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 1992)

8-207. 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 8-201, 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 1992)

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 sent 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 restricted mail, postage prepaid, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
(Code 1992)

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 1992)

8-210. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-208, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.
(Code 1992)

ARTICLE 2A. ENVIRONMENTAL CODE

8-2A01. TITLE. This article shall be known as the "Environmental Code." (Code 1992)

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; uncleanness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety

of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 1992)

8-2A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 1992)

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 1992)

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 - used or intended to be used primarily for other than residential purposes.

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

(5) Exterior - those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: siding, 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 1992)

8-2A06. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.

(Code 1992)

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 1992)

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.

(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 1992)

8-2A09. NOTICE Any person found by the public officer to be in violation of section 8-2A08 shall be sent a notice of such violation by the public officer. The notice shall be sent by restricted mail, postage prepaid, return receipt requested. The notice shall state:

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

(b) That the person in violation shall have:

(1) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;

(2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation;

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

(3) 15 days from the date of the mailing of the notice to request, as provided in section 8-2A13 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 1992)

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 sent 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 1992)

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 a notice has been sent 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 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in section 8-2A15.

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

- (a) Personal service upon the person in violation;
 - (b) Service by restricted mail, postage prepaid, return receipt requested;
 - (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.
- (Code 1992)

8-2A12. HEARING BEFORE GOVERNING BODY. If a hearing is requested within the 15 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 therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 8-2A11. (Code 1992)

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 1992)

8-2A14. COSTS ASSESSED. If the city abates the conditions in violation of this article pursuant to section 8-2A11, the cost of abatement shall be charged against the lot or parcel of ground on which the conditions were located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1992)

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 1992)

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.
- (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.
- (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.
- (Code 1992)
- 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. (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. (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. (Code 1992)
- 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

restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Allen County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. (Code 1992)

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.

(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 \$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 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 restricted mail, postage prepaid, return receipt requested; or

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

for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premiss where such condition exists.
(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. Supp. 8-1102, as amended. (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 cit may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-310.
(Code 1992)

8-313. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-310, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.
(Code 1992)

ARTICLE 4. WEEDS

8-401. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Code 1992)

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

(Code 1992)

8-403.

PUBLIC OFFICER; NOTICE TO REMOVE. The mayor with the consent of the city council shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or an authorized assistant shall notify the owner or his or her agent in charge of any premises in the city upon which weeds exist in violation of this article, by restricted mail or by personal service. Such notice shall include the following:

(a) That the owner or his or her agent in charge of the property is in violation of the city weed control law.

(b) That the owner or his or her agent the person in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.

(c) That the owner or his or her 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 or his or her 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 cost against the owner or his or her agent in charge of the property.

(e) That the owner or his or her 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 the public officer should be contacted if there are any questions regarding the order.

If the owner or his or her agent in charge of the property cannot be served in the above manner, service may be made by publishing one notice in the official city newspaper. If notice is made by publication, the owner or his or her agent in charge of the property will be ordered to cut the weeds within 10 days from the date of publication.

(Code 1992)

8-404.

ABATEMENT; ASSESSMENT OF COSTS. (a) Upon the expiration of 10 days after receipt or publication or other service of the notice required by section 8-403, and in the event that the owner or his or her agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-401,

the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby.

(b) The public officer or an assistant shall give notice to the owner or his or her agent in charge of such property by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c) If the costs remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

(K.S.A. 12-1617e; Code 1992)

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. (Code 1992)

8-406. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Code 1992)

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*), quack grass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*).

(K.S.A. 2-1314; Code 1992)

ARTICLE 5. MINIMUM HOUSING CODE

8-501. PURPOSE. This article shall be known as the Housing Code of the City of LaHarpe. It is the purpose of this article to establish minimum standards of

dwelling space, facility requirements and structural adequacy for dwellings within the city; to provide for administration and enforcement of this article and to specify authority and procedure to be followed in executing the powers established in this article. (Ord. 1520, Sec. 1)

8-502. DEFINITIONS. The following terms whenever used or referred to in this code shall have the following respective meanings for the purpose of this article:

- (a) City is the City of LaHarpe, Allen County, Kansas.
 - (b) Council is the city council of the city.
 - (c) Public Officer is the person designated or appointed by the council to exercise the powers prescribed by this article.
 - (d) A residential structure or dwelling shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be used, and includes any appurtenances belonging thereto or usually enjoyed therewith.
 - (e) A nonresidential structure shall mean any structure which is used for other than residential purposes, or a part of such structure, or a structure a part of which is used for other than nonresidential purposes and, where applicable, the premises on which such structures are situated.
 - (f) Dilapidation shall mean a state of disrepair, decay or conspicuous lack of maintenance of exterior painting of a dwelling as to constitute a blighting influence on properties in the neighborhood.
 - (g) Owner is the holder of the record legal title to any dwelling with or without accompanying actual possession thereof.
 - (h) Parties in Interest shall mean all individuals, associations or corporations who have interests of record in a dwelling, and any who are in, or known to the public officer to be entitled to possession thereof.
 - (i) Habitable Room means a room or enclosed floor space arranged for living, eating or sleeping purposes, not including bath or toilet rooms, laundries, pantries, foyers or communicating corridors.
 - (j) Rooming House is a hotel structure containing rooms rented either by the day, week or month, and similar structure with similar rooms designed for individual or non-family use and not containing cooking facilities.
- (Ord. 1520, Sec. 2)

8-503. FINDING THAT HAZARDS EXIST. It is found as fact that there exist in such city dwellings which are unfit for human use or habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions including the following without limitation:

- (a) Defects therein increasing and hazards of fire, accident or other calamities;
- (b) Lack of adequate ventilation;
- (c) Air pollution;
- (d) Inadequate light or sanitary facilities;
- (e) Dilapidation;

- (f) Disrepair;
 - (g) Structural defects;
 - (h) Uncleanliness;
 - (i) Overcrowding;
 - (j) Inadequate ingress and egress;
 - (k) Dead and dying trees, limbs or other unsightly natural growth;
 - (l) Unsightly appearances that constitute a blight to adjoining property, the neighborhood or the city;
 - (m) Walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood;
 - (n) Unsightly stored or parked material, equipment, supplies machinery, trucks or automobiles or parts thereof;
 - (o) Vermin infestation;
 - (p) Inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements; rendering such structures unsafe or unsanitary or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of such city.
- (Ord. 1520, Sec. 3)

8-504.

DESIGNATION AND DUTIES OF PUBLIC OFFICER. A public officer shall be designated or appointed by the council to exercise the powers prescribed by this article. Whenever a petition is filed with the public officer by at least five residents of the city charging that any structure is unfit for human use or habitation or whenever it appears to the public officer (on his or her own motion, and particularly on vacancy or change of occupancy of a dwelling that any dwelling is unfit for human use or habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charge, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such structure (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the public officer or his or her designated agent at a place therein fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts or law or equity shall not be controlling in hearings before the public officer. That if, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human use or habitation he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which:

(a) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (which is hereby fixed at not over 50 percent as reasonable for such purpose), requires the owner, within the time specified in the order, to repair, alter, or improve such structure to render

it fit for human use or habitation or to vacate and close the structure until conformance with ordinances established under this law; or

(b) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, (which is hereby fixed at not over 50 percent as reasonable for such purpose), requires the owner, within the time specified in the order, to remove or demolish such structure.

(c) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed.

(d) That, if the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished.

(e) The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and such lien, including as part thereof allowance of his or her costs and the necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized bylaw for loans secured by liens on real property or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land. If the structure is removed or demolished by the public officer he or she shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining it shall be paid to the parties entitled thereto as determined by proper judicial proceedings including his or her necessary attorney's fees incurred therein as determined by the court.

(f) The public officer may determine that a structure is unfit for human use or habitation if he or she finds 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 residence of such city or which have a blighting influence on properties in the area. Such conditions may include without limitation any of the conditions described and set out in section 8-503 hereof, or lack of minimum facilities prescribed in section 8-508 hereof.

(Ord. 1520, Sec. 4)

8-505.

SERVICE. Complaints or orders issued by the public officer pursuant to this article shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the city. A copy of such complaint or order shall be posted in a conspicuous

place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the District Court of Allen County, Kansas, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. 1520, Sec. 5)

8-506. APPEAL AND REVIEW. Any person affected by an order issued by the public officer may petition the District Court of Allen County, Kansas, for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided however, that within 30 days after the posting and service of the order by the public officer such person shall petition such court. Hearing shall be had by the court on such petition as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceedings. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for actin taken pursuant to any order of the public officer or because of compliance by such person with any order of the public officer. All as provided and authorized by the Laws of Kansas. (Ord. 1520 Sec. 6)

8-507. POWERS OF PUBLIC OFFICER. The public officer is hereby authorized to exercise such power as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article including the following powers in addition to others herein granted:

- (a) To investigate the structure conditions in the municipality in order to determine which structures and dwellings therein are unfit for human use and habitation;
- (b) To administer oaths, affirmations, examine witnesses and receive evidence;
- (c) To enter upon premises for the purpose of making examinations, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- (d) To appoint and fix the duties of such officer, agent and employees as he or she deems necessary to carry out the purposes of this article; and
- (e) To delegate any of his or her functions and powers under this article to such officers, agents and employees as he or she may designate.

(Ord. 1520, Sec. 7)

8-508.

MINIMUM STANDARDS FOR DWELLINGS AND ROOMING HOUSES. (a) All dwellings shall have the following minimum facilities in satisfactory operating conditions, to-wit:

- (1) Inside running water and an installed kitchen sink;
- (2) Inside bathing facilities which shall consist of an installed tub or shower;
- (3) An installed water closet; if such is built on a porch, it shall be enclosed for privacy and from the weather. All water closets shall have running water and be connected to sewage disposal in accordance with other codes of the city;
- (4) Installed electric lighting facilities;
- (5) Installed heating facilities including arrangements by chimneys or flues in accordance with safety codes and practices.
- (6) Screens or other devices to effectively cover openings to the outside of the living and eating portions of such dwellings with mesh of such fineness as to prevent the entrance of flies, mosquitoes, and similar pests.
- (7) Such other facilities and standards as are required by ordinances and codes of the city.

(b) Rooming houses shall have the same minimum facilities in satisfactory operating conditions as dwelling except as follows:

- (1) Kitchen sink shall only be required in connection with cooking facilities.
- (2) Bathing facilities shall be provided in the form of a tub or shower for each eight occupants.
- (3) A water closet shall be provided for each six occupants and shall be separated from bathing facilities if more than four occupants are served by each. (Ord. 1520, Sec 8)

8-509.

NUISANCES, VIOLATIONS AND PENALTIES. If any order issued and served in accordance with this article is not complied with within the time specified therein the dwelling with respect to which the order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person that has knowledge of the issuance of the order to occupy it as a human habitation, or use the dwelling or any part thereof, or to suffer or permit same, or any part thereof, to be occupied as a human habitation or used thereof, and any person violating this article or failing to comply therewith shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by a fine of not to exceed \$50 for each and every offense, and each day that any such violation or failure to comply continues or is allowed to continue, shall constitute and be a separate and distinct offense. (Ord. 1520, Sec. 9)

8-510.

DUTIES OF CITY ATTORNEY. The public officer shall promptly report to the city attorney the names and addresses of all persons known to the public officer who have violated or failed to comply with this article, and it shall be the duty of the city attorney to proceed against such persons by civil or criminal action as shall be appropriate. (Ord. 1520, Sec. 10)

8-511. REPORTS OF PUBLIC OFFICER. The public officer shall promptly report dwellings which are suspected of being unfit for human habitation to the building inspector, fire chief, marshal, health officer, electric and plumbing inspectors as may be appropriate. (Ord. 1520, Sec. 11)

8-512. MISCELLANEOUS PROVISIONS. The powers conferred upon the public officer by the provisions of this article shall be in addition and supplemental to the powers conferred upon the public officer by any other ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measures and procedures herein provided for do not supersede, and this article does not repeal any measures or procedures which are provided by ordinance or state laws for the elimination, repair or correction of the conditions. (Ord. 1520, Sec. 12)

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) Rat harborage. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.

(e) Rat-stoppage. A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.

(Code 1992)

- 8-602. BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 1992)
- 8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 1992)
- 8-604. FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 1992)
- 8-605. REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 1992)
- 8-606. NOTICE TO ERADICATE RATS. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 1992)
- 8-607. CONDITIONS CONDUCIVE TO HARBORAGE OF RATS. (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free

and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

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

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

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

(Code 1992)

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 1992)

ARTICLE 7. FAIR HOUSING

8-701. FAIR HOUSING POLICY. The city council 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 or obtain financial of real property without regard to race, color, sex, national origin or ancestry and religion. This article shall be deemed an exercise of the police powers of the city, for the protection of the public welfare, prosperity, health and peace of the people of the city. (Ord. 1599, Sec. 1)

8-702. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein unless the context otherwise indicates.

(a) Person shall include one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy or 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, national origin or ancestry, and religion, and shall include only those unlawful practices and acts as set forth in section 8-703 of this article.

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

(d) 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.

(e) 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.

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

(g) Real Property shall include all real estate, leaseholds, and any vacant land offered for sale or rent.

(h) Housing Accommodation shall mean:

(1) Any building or portion thereof, whether such building or portion is constructed or is to be constructed which is used or intended for use as the residence or sleeping place of one or more persons.

(2) The term housing accommodation shall not mean or include: (A) The rental of a dwelling, or a portion thereof, containing accommodation for no more than two families, one of which is occupied by the owner or his or her family at the time of rental; (B) The rental of less than four rooms in a one-family dwelling to another person or person by the owner or occupant of such accommodation in which he, she or members of his or her family reside.

(Ord. 1599, Sec. 2)

8-703.

UNLAWFUL DISCRIMINATORY HOUSING PRACTICE. 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.

(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, specifications, 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 persons or financial institution or loan 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 persons because of the race, color, sex, 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.

(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, sex, religion, national origin, or ancestry, or any intent to make any such limitation, specification or discrimination.

(c) For any person, owner, real estate broker, real estate sales, an, or agent thereof:

(1) To discriminate against any person because of the race, color, sex, 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.

(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 limitations, specifications or discrimination as to race, color, sex, religion, national origin, or ancestry, or any intent to make any such limitation, specification or discrimination.

(d) For any person, owner, real estate broker, real estate salesman, or agent thereof:

(1) To discriminate or to engage in economic or other reprisals against another person because such person complies with the provisions of this article or has opposed any practice forbidden under this act, or has filed a complaint, testified, or assisted in any proceedings under this article.

(2) To aid, abet, incite, compel, coerce, cooperate or participate in the doing of any act declared to be a discriminatory practice under the provisions of this article, or to obstruct or prevent compliance with the provisions of this article, or to attempt directly or indirectly to commit any act declared by this article to be a discriminatory practice.

(3) To induce or attempt to induce the sale or listing for sale of any dwelling unit, commercial unit, or real property or any part or portion thereof by representing that a change has occurred or will or may occur with respect to the racial, religious or ethnic composition of the block, neighborhood, or area in which the property is located, or to induce or attempt to induce such sale by representing that the presence or anticipated presence of persons of any particular race, religion, sex, or national origin or color in the area will or may result in: (A) The lowering of property values; (B) A change in the racial, religious, or ethnic composition of the block, neighborhood, or area in which the property is located; (C) An increase in criminal or anti-social behavior in the area; (D) A decline in the quality of the schools serving the area.

(Ord. 1599, Sec. 3)

8-704.

EXEMPTIONS. Nothing in this article shall prohibit a religious organization, association, or society, or any non-profit 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 lodging to its members or from giving preference to its members. (Ord. 1599, Sec. 4)

8-705.

ADMINISTRATION OF THIS ARTICLE. (a) Any person claiming to be aggrieved of any unlawful discriminatory housing practice, hereinafter referred to as a complainant, may on his or her own behalf, or by his or her attorney, make, sign and file with the city clerk, a complaint in writing, under oath, which shall state the name and address of the person alleged to have committed an unlawful discriminatory practice. The city clerk will then refer the complaint to the city council. The complaint shall set forth the particulars thereof and contain such other information as may be required by the city clerk of the city.

(b) Alternatively, the city council may issue, in like manner, a verified complaint of an alleged unlawful discriminatory housing practice.

(c) Any complaint filed under this article must be filed within 30 days after the date of the alleged incident.

(d) In the event of a complaint being filed pursuant to this section, a true copy of such complaint shall forthwith be transmitted by the city council by

certified United States mail, postage prepaid, addressed to the person complained against.

(e) Every complaint of a violation of this article shall be referred to the city of the city and the city council 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 city council after investigation, finds there is no merit to this complaint, the same shall be dismissed. If the city council finds that there is merit to the complaint, in its opinion, then and in that event, it will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

(f) If the city council, within 30 days from the receipt of such complaint, is unable to eliminate the alleged discriminatory practice by a conference or conferences and conciliation, then and in that event the city clerk of the city shall return the complaint to the city attorney for handling, and, after the final determination of whether or not to prosecute on the complaint, the city attorney may commence a proceeding in the appropriate court of the prosecution of the complaint as permitted by law.

(Ord. 1599, Sec. 5)

8-706.

PENALTIES. (a) 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 code violation 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 violating any of the provisions of this article shall be deemed guilty of a code violation.

(Ord. 1599, Sec. 6)

ORDINANCE NO. 1700

"AN ORDINANCE RELATING TO THE CUTTING OF WEEDS AND VEGETATION, PROVIDING FOR NOTICE AND PROVIDING FOR CUTTING BY THE CITY OF LAHARPE, AND PROVIDING FOR CHARGES THEREFORE."

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAHARPE, KANSAS:

SECTION 1: 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.

SECTION 2: DEFINITIONS.

- (a) Calendar Year as used herein, means that period of time beginning January 1 and ending December 31 of the same year.
- (b) Weeds as used herein, means any of the following:
- (1) Brush and woody vines shall be classified as weeds;
 - (2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
 - (3) Weeds which bear or may bear seeds of a downy or wingy nature;
 - (4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
 - (5) Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

SECTION 3: PUBLIC OFFICER; NOTICE TO REMOVE. The City 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 notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by mail or by personal service, once per calendar year. Such notice shall include the following:

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

If the owner or his or her agent in charge of the property cannot be served in the above manner, service may be made by publishing one notice in the official city newspaper. If notice is made by publication, the owner, occupant, and/or the person in charge of the property will be ordered to cut the weeds within 10 days from the date of publication.

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.

SECTION 4: ABATEMENT; ASSESSMENT OF COSTS.

- (a) Upon the expiration of 10 days after receipt of the notice required by Section 3, 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 1, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
- (b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

- (c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the City Clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

SECTION 5: 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 ordinance.

SECTION 6: 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 an ordinance violation.

SECTION 7: NOXIOUS WEEDS.

- (a) Nothing in this ordinance 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*).

SECTION 8: Effective Scope of Ordinance. This ordinance shall be effective only for the current calendar year.

SECTION 9: This Ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

ADOPTED and APPROVED by the City Council, this 21st day of April, 1993.

City of LaHarpe

Mary L Moore

Mary Moore

Mayor

(Seal)

ATTEST:

Evelyn Maloney

Evelyn Maloney

City Clerk

(First published in the lola Register, November 17, 2015)

GENERAL ORDINANCE NO: 1799

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3, SECTION 8-302 OF THE CODE OF THE CITY OF LaHARPE, RELATING TO MOTOR VEHICLES ON PRIVATE PROPERTY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LaHARPE, KANSAS:

SECTION 1: AMENDMENT. The City does hereby amend the title of Article 3, of Chapter 8 as follows:

MOTORIZED VEHICLES ON PRIVATE PROPERTY;

AND does hereby specifically amend Section 8-302 of Article 3, Chapter 8 of the Code of the City of LaHarpe, to read as follows:

DEFINITIONS.

(c) Vehicle shall not mean any motorized form of transportation that is being restored and is being done so in a timely manner nor does it include motorized forms of transportation that are being used in competitive manners, i.e. stock cars or mud trucks. All of these vehicles may be stored under tarps or upon trailers, but still must be maintained in a reasonable manner.

SECTION 2: REPEAL. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed accordingly.

SECTION 3: EFFECTIVE DATE. This Ordinance shall take effect from and after its passage, approval and publication in The lola Register as provided by law.

PASSED and APPROVED by the council and SIGNED by the Mayor this 10th day of November, 2015.

CITY OF LaHARPE, KANSAS

By: Ella Mae Crowell
Ella Mae Crowell, Mayor

Attest:

Michelle Altis
Michelle Altis, City Clerk