ARTICLE 7. MINIMUM HOUSING CODE

8-701. TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 1995)

8-702. GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 1995)

8-703. DECLARATION OF POLICY. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, including the general appearance of privately and publicly-owned structures or dwellings, and all other premises for the purpose of sanitation and public health:

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

(Ord. 2112, 2022; Code 1995)

8-704. DEFINITIONS. The following definitions shall apply to the enforcement of this code:

(a) Basement shall mean a portion of a building located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
(b) Cellar shall mean a portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
(c) Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.
(d) Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.
(e) Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.
(f) Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, hall and storage places, or other similar places, not used by persons for extended periods.

(g) Infestation shall mean the presence, within or around a dwelling, of insects, rodents, or other pests.
(h) Multiple Dwelling shall mean any dwelling containing more than two dwelling units.
(i) Occupant shall mean any person, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.
(j) Operator shall mean any person who has charge, care, owns, or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.
(k) Owner shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.
(l) Person shall mean and include any individual, firm, corporation, association or partnership.
(m) Plumbing shall mean and include all of the following supplied facilities and equipment: gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.
(n) Premise shall mean any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.
(o) Public Officer shall mean the Code Enforcement Officer or his/her designee (s).
(p) Rooming House shall mean any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.
(q) Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
(r) Refuse. For the purpose of this article refuse shall include garbage, and trash.
    (1) Garbage shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.
    (2) Trash (Combustible). For the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

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

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

(t) Supplied shall mean paid for, furnished, or provided by or under the control of, the owner or operator.

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

(v) Words – Meanings. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof." (Ord. 2112, 2022; Code 1995)

8-705. DUTY OF OCCUPANT OR OWNER OR OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES.

(a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-708 and 8-709).

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

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

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

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

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner. (Ord. 2112, 2022; Code 1995)

8-706. REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) Attached Garages or Non-dwelling Areas. All non-dwelling structures and garages which are covered by a common or connecting roof, must have a ceiling with a fire resistance rating of not less than one hour as defined in the building code.

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

(c) Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with Section 8-706(r) of this Article governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

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

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

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

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

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

(g) Entrances.
    (1) There shall be for each dwelling unit a normally used separate access either to a hallway, stair way, or street, which is safe and in good repair. Each entrance area must have a landing area that meets building code standards.
    (2) A secondary exit to the ground shall be available in the case of fire through windows, porch roofs, ladders or any combination that is free of hazard or egress.

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

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

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

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

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

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

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

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

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

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

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

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

(t) Windows and Doors. Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair. (Ord. 2112, 2022; Code 1995)

8-707. MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, decks, door landings, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Ord. 2112, 2022; Code 1995)

8-708. DESIGNATION TO UNFIT DWELLINGS. The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

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

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

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

(2) Lack of:

i. Adequate ventilation.

ii. Light.

iii. Cleanliness.

iv. Sanitary facilities.

(3) Dilapidation.
(4) Disrepair.
(5) Structural defects.
(6) Overcrowding.
(7) Inadequate ingress and egress.
(8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.
(9) Air Pollution.

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

(d) Order of Violation. Procedures as outlined in section 8-712 are applicable hereto.

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

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

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

(3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the Public Officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code. (Ord. 2112, 2022; Code 1995)

8-709. DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL). The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

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

(1) Dead trees or other unsightly natural growth.
(2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

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

(4) Absence of grass, suitable ground cover or other erosion control measure in nonpaved areas for more than fourteen days.

(b) Notice of Violation. Procedures as outlined in section 8-712 are applicable hereto. (Ord. 2112, 2022; Code 1995)

8-710. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL).

(a) Certain Blighted Conditions covered in sections 8-708 and 8-709 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) Order of Violation. Procedures of notification shall follow those prescribed in section 8-712. (Ord. 2112, 2022; Code 1995)

8-711. COMPLAINTS; INQUIRY AND INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES.

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

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

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

(d) Every Occupant of a dwelling shall give the owner thereof, or his or her authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code. (Code 1995; Ord. 2112, 2022)

8-712

ORDER OF VIOLATION.

(a) The governing body or its designee, as hereinafter named, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-708 and/or 8-709 an order stating the violation. The order shall be served on the owner or agent of such property

by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

(c) The Public Officer is hereby designated by the governing for the purposes of issuing the order required herein. Such order shall be issued by the Public Officer upon the filing of a written statement of a violation of this Article. The order shall be issued in the name of the governing body; shall be served as required in this Article; and shall, contain all notices and other information as required by this Article and K.S.A. 12-16173, and amendments thereto. (Ord. 2112, 2021; Code 1995)

8-713. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of Section 8-708 and/or 8-709. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 30 days from the date of serving the order to abate the condition(s) in violation of Section 8-708 and/or 8-709; 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 8-714;
(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-715 and/or abatement of the condition(s) by the city as provided by Section 8-716. (Ord. 2112, 2021; Code 1995)

8-713.a PUBLIC OFFICER: AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises. (Ord. 2112, 2021;Code 1995)

8-714. HEARING. If a hearing is requested within the 10 day period as provided in Section 8-712, 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 8-715. (Ord. 2112, 2021; Code 1995)

8-715. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership, or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association. Upon such complaint in the municipal court, any person found to be in violation of Section 8-708 and/or 8-709, shall, upon conviction, be punished by a fine of not less than $50.00 or more than $100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment for each offense. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 2112, 2021; Code 1995)

8-716. ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 8-715, the public officer may seek to remedy violations of this Article in the following manner. If a person to whom an order has been served pursuant to Section 8-712 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-713, 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 8-717. 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.
(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such

order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Ord. 2112, 2021; Code 1995)

8-717. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-716, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Ord. 2112, 2021; Code 1995)

8-718. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY.

(a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.
(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 1995)

8-719. RIGHT OF PETITION. After exhausting the remedy provided in section 8-715, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order. (Ord. 2112, 2021;Code 1995)