

CHAPTER VII. HEALTH AND WELFARE

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ARTICLE 1. PUBLIC HEALTH STANDARDS

7-101. DEFINITIONS. Unless the context specifically indicates otherwise, the following terms used in this article shall mean as follows:

(a) Waste or Wastes: Shall mean useless, unused, unwanted or discarded materials resulting from normal community activities. Wastes include solids, liquids or gases.

(b) Refuse: Shall mean all putrescible and nonputrescible waste materials (except body wastes) such as trash, garbage, tree trimmings, grass cutting, dead animals and industrial wastes but shall not include human or animal excrements, salvage or inert materials produced in connection with the erection or demolition of buildings.

(c) Trash or Rubbish: Shall mean all nonputrescible animal and vegetable wastes including but not limited to paper, cardboard, tin cans, glass, wood, yard clippings, crockery, metals, and ashes.

(d) Garbage: Shall mean the putrescible animal and vegetable wastes resulting from the handling, preparation, cooling and consumption of food;

(e) Industrial Refuse: Shall mean the solid wastes resulting from industrial processes.

(f) Dead Animals: Shall mean those that die in the normal course of community activity, excluding condemned animals at slaughter houses or any other animals normally considered industrial refuse.

(g) Manure: Shall mean the body discharges of all animals except humans;

(h) Human Excreta: Shall mean the body discharges (both feces and urine) of humans.

(i) Sewage: Shall mean a combination of the water carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground surface and storm waters as may be present.

(j) Salvage Materials: Shall mean materials of some value that are obtained from the disassembly of various kinds of machinery and mechanical appliances and/or the demolition of buildings or similar structures;

(k) Salvage Yard: Shall mean any premises used for:

(1) The sale and resale of used merchandise;

(2) The disassembling of wrecked or used automobiles and sale of auto parts,
and;

(3) The collection, sorting, storage and/or resale of various kinds of metal and/or used building materials.

(l) Foodstuffs: Shall mean all food used for human consumption;

(m) Rodents: Shall mean the so-called domestic rats, *Rattus norvegicus*, *Rattus rattus alexandrinus* and *Rattus rattus rattus*, domestic mice, *Mus musculus* and other wild native rodents associated with the transmission of diseases affecting man or other animals.

(n) Insects: Shall mean the following classes of Arthropoda:

(1) Insecta; and;

(2) Arachnida, including flies, lice, cockroaches, bedbugs, plant bugs and mites, ticks, spiders and scorpions.

(o) Control Measures: Shall mean any chemical, structural, physical procedures, or processes designed to eradicate, minimize, prevent or otherwise limit the reproduction and/or infestation of insects, rodents or other animal populations detrimental to public health.

(p) Premises: Shall mean a lot, plot or parcel of land, including the dwellings and structures, if any, located thereon.

(q) Director of Community Health: Shall mean the director of the Sedgwick County Department of Community Health.

(r) Health Officer: Shall mean the director of the Sedgwick County Department of Community Health or authorized representative.

(s) City: Shall mean the City of Haysville, Sedgwick County, Kansas.

(t) Utility Committee: Shall be appointed by the mayor and be comprised of two councilmembers and the public works director.

(u) Code Enforcement Officer: Shall mean the code enforcement officer of the city.

(Code 1971, Sec. 7-101; Code 2003)

7-102. **RESPONSIBILITY OF CODE ENFORCEMENT OFFICER.** The code enforcement officer or the health officer of the Sedgwick County Department of Community Health shall be responsible for the enforcement of this article and is hereby authorized to make such investigations, to issue notices, orders and directions as are necessary for the enforcement of the provisions of this article.

(Code 1971, Sec. 7-102; Code 2003)

7-103. **RESPONSIBILITY OF LEGAL COUNSEL.** The city's legal counsel shall be responsible for the prosecution of all violators of the provisions of this article in the municipal court of the city.

7-104. **NOTICES.** Whenever the code enforcement officer determines that there has been a violation of any provisions of this article, he or she shall give notice of such alleged violation to the person or persons responsible therefore as hereinafter provided. Such notices shall:

(a) Be in writing;

(b) Particularize the violations alleged to exist or to have been committed;

(c) Provide a reasonable time for the correction of the violations particularized;

(d) Be addressed to and served upon the owner and/or occupant of the premises.
(Code 1971, Sec. 7-104; Code 1984)

7-105. HEARINGS. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this article, who is aggrieved thereby, and who believes the same to be contrary to the policies or regulations of the city may request and shall be granted a hearing on the matter before the governing body. Such person shall file in the office of the city clerk a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the notice is served. Upon receipt of such petition the city clerk shall set a date to be heard at the next regular council meeting for such hearing. At the hearing, the petitioner shall be given an opportunity to be heard and to show why the notice should be modified or withdrawn. The proceedings at the hearing, including the findings and decision of the governing body, shall be summarized, reduced to writing and entered as a matter of public record in the office of the city clerk. The record shall also include a copy of every notice or order issued in connection with the matter. Appeals from the decision of the director of community health officer or designated representative may be made to the governing body within five (5) days after the decision has been declared. Whenever the director of community health or designated representative finds that an emergency exists which requires immediate action to protect the community health, he or she may request that the mayor issue an order reciting the existence of such emergency and requiring that such action be taken as they (the code enforcement officer or designated representative and the mayor) deem necessary to meet the emergency. The mayor shall determine whether the aforesaid order shall be issued. In the event that the mayor determines that an emergency exists, he or she may, without notice or hearing, issue the order. Notwithstanding the other provisions of this article, the order shall be immediately effective. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the code enforcement officer shall be afforded a hearing as herein provided as soon as possible. After such hearing, upon the recommendations of the code enforcement officer, the governing body shall determine whether the order shall be continued in effect, be modified or revoked.

(Code 1971, Sec. 7-105; Code 2003)

7-106. SAME; ORDERS. After such hearing, the code enforcement officer or designated representative may sustain, modify or withdraw the notice, depending upon his or her findings as to whether the provisions of this article and the rules and regulations adopted pursuant thereto have been complied with. If the code enforcement officer or designated representative sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this article shall become an order if a written petition for a hearing is not filed in the office of the city clerk within ten (10) days after notice is served.

(Code 1971, Sec. 7-106; Code 2003)

7-107. SANITATION STANDARDS FOR REFUSE. Sanitation standards for refuse in the city shall be as follows:

(a) Storage:

(1) The owners or occupants of all residential premises shall store all refuse produced on such premises, in liquid tight containers covered with fly-tight, watertight lids or covers. All garbage that is produced on such residential premises shall be drained and wrapped in newspaper or similar material prior to being placed in the container. Garbage that is disposed of by garbage grinders shall otherwise be excluded from the provisions of this section;

(2) All garbage that is not otherwise disposed of by garbage grinders from commercial or other establishments that process, sell or serve food products shall be stored in separate liquid tight containers with fly-tight and watertight lids or covers;

(3) Owners or occupants of premises other than residential shall store all trash produced on such premises in suitable, liquid tight containers, covered with fly-tight and watertight lid or covers. In the event trash is of such quantity as to make it impractical to place the same in containers, the owner or occupant of such premises shall provide storage facilities for the trash as may be required by the code enforcement officer;

(4) Bulky nonputrescible material may be stored on the ground near the refuse containers of all premises. Such material shall be tied securely in bundles less than four (4) feet in length and less than fifty (50) pounds in weight.

(b) Collection, Removal and Disposal:

(1) The refuse from all premises shall be collected and removed at least once each week, in covered vehicles of watertight construction, inspected and approved for collection of refuse;

(2) All vehicles used for the collection of refuse shall be kept in a clean and sanitary condition and shall be washed free of putrescible materials at the close of each day and shall be kept in safe mechanical condition;

(3) All persons, other than those collecting and removing refuse from premises occupied by them, who collect or offer to collect refuse in the city, shall be licensed as required by this code and any amendments thereto;

(4) All refuse collected from premises within the corporate limits of the city shall be disposed of at such locations and in such a manner as approved by the code enforcement officer;

(Code 1971, Sec. 7-107(b)(1); Ord. 320; Code 2003)

7-108. SANITATION STANDARDS FOR ANIMALS. Sanitation standards for animals for the city shall be as follows:

(a) Diseased Animals or Fowl. Any domestic animal or fowl suffering from a disease that is hazardous to other animals or humans shall be destroyed or placed in custody of a veterinarian in an animal hospital;

(b) Animal Pen.

(1) Location. No animal pen, rabbit hutch, pigeon loft or similar structure or enclosure housing animals or fowl shall be located fewer than thirty-five (35) feet from a dwelling or street;

(2) Fence. Barbed wire fences and electrically charged fences shall not be permitted, except on public land or properties for which agricultural classification permit is held or on top of a six (6) foot security fence;

(3) Cleaning. Structures or enclosures used to confine fowl or animals shall be kept in a sanitary condition that will not produce offensive odors or breed flies. All accumulations of manure, straw or litter shall be removed from such structures or enclosures each day and placed in containers approved by the code enforcement officer for such purposes;

(4) Removal of Manure. Accumulations of manure stored in approved containers shall be removed from all premises at least twice each week and disposed of in a manner approved by the code enforcement officer;

(5) Feeding of Garbage to Animals. Domestic garbage or food scraps shall not be fed to animals or fowl harbored or kept in pens located within the corporate limits of the city.

(Code 1971, Sec. 7-108; Code 1984; Code 2003)

7-109. SEWAGE AND HUMAN EXCRETA. Facilities for rules and regulations of disposal of sewage and human excreta shall be as follows:

(a) Facilities. All human excrements shall be discharged into a plumbing system connected to a sanitary sewer system, or septic tank system, as approved by the public works director or his/her designee and as otherwise required by this code and amendments thereto.

(b) Disposal. No owner or occupant of any premises within the corporate limits of the city shall discharge or permit to be discharged on the surface of the ground of any premises owned or occupied by him or her any sewage, industrial waste, septic tank effluent or any other liquid or solid wastes that are hazardous or dangerous to health;

(c) Privies. Privies shall not be used for the disposal of human excreta, except for construction projects located in unsewered areas in which case privies approved by the public works director or his/her designee will be permitted until such time as adequate plumbing facilities can be provided and except as otherwise permitted by the public works director or his/her designee.

(Code 1971, Sec. 7-110; Code 1984; Code 2003)

7-110. SALVAGE YARDS. All salvage yards shall be located in accordance with city zoning regulations. All rackable salvage materials shall be stored on racks or in bins with at least eighteen (18) inches of clearance between the bottom of the rack or bin and the ground and a width of forty eight (48) inches or less. No rack or bin shall be closer than forty eight (48) inches to a wall, fence or adjacent bin or rack. Nonrackable materials shall be stored with an exposed perimeter or in a manner specified by the code enforcement officer to prevent rodent harborage and breeding. All ground surfaces except lawn areas shall be kept free of all grasses and weeds using soil sterilants, herbicides and/or other effective methods. An effective, continuous rodent poisoning using anticoagulant rodenticides or other effective methods shall be maintained at all salvage yards.

(Code 1984; Code 2003)

7-111.

RODENT CONTROL. Rodent control in the city shall be as follows:

(a) Rodent Proofing. Buildings or premises located in industrial and commercial zones and all premises with multi-family dwellings shall be maintained in rodent proof condition by proper application of structural materials or alterations approved by the city inspector for rodent proofing and applied in the manner specified by the city inspector;

(b) Screening. Exterior windows and doors of all buildings used for human habitation or for storage, preparation or serving of food shall be screened in a manner prescribed by the city inspector;

(c) Storage of Foodstuffs. All foodstuffs stored within buildings or premises described in section 7-111(a) of this article shall be stored in an orderly manner so as to facilitate good housekeeping, prevent contamination and minimize food or harborage of rodents;

(d) Storage of Nonfoodstuffs. All nonfoodstuffs stored within buildings or premises described in section 7-111(a) of this article shall be stored off the floor in a manner that will facilitate proper cleaning and minimize rodent harborage. All organic nonfoodstuffs shall be treated in a manner that will limit the access of such materials to rodents. All storage areas within the building shall be kept free of such trash and rubbish;

(e) Storage of Materials Outside Buildings. Materials stored outside buildings or premises described in section 7-111(a) of this article shall be kept on racks that provide a clearance of eighteen (18) inches or more between the bottom of the rack and the ground surface and at least forty eight (48) inches away from a building, wall or fence. Refuse containers may be stored on a concrete slab as specified by the city inspector. The code enforcement officer shall have discretion to issue a waiver to property owners, valid for one year, to reduce the clearance level for storage of those materials that can not feasibly be stored on racks or should not be stored 18" off the ground due to extreme size and weight of such materials. Inconvenience to the property owner shall not be grounds for issuance of such a waiver, and all such waivers must be annually renewed following an on-site inspection by the code enforcement officer. Initial issuance and subsequent reissuance of such waivers shall not be automatic, but based on articulable facts in existence at the time of each inspection.

(f) Rodent Eradication. When directed to do so by the code enforcement officer or representative of Sedgwick County Department of Community Health, the owners or occupants of any premises shall institute effective rodent eradication measures as recommended by the code enforcement officer or the representative of the Sedgwick County Department of Community Health.

(Code 1971, Sec. 7-112; Code 2003; Ord. 915)

7-112.

INSECT CONTROL. The control of insects in the city shall be as follows:

(a) Insect Breeding. All premises in the city shall be maintained free of conditions that encourage or permit any unnecessary breeding of insects that are annoying or dangerous to residents of the city;

(b) Screening. Exterior windows and doors of all buildings used for human habitation or for the storage, preparation or serving of food shall be screened in a manner prescribed by the city inspector;

(c) Whenever the city inspector shall find that it is impossible or impractical for owners or occupants to individually control populations of dangerous or annoying insects, he or she shall notify the city and it shall be the duty of the city to develop, in cooperation with the city inspector, a practical program for community wide control.
(Code 1971, Sec. 7-1136; Code 2003)

7-113. CONSTRUCTION OF LAKE OR POND, UNLAWFUL. It shall be unlawful for any person, persons, business or other entity, other than the city and its designees to construct or cause to be constructed, within the corporate limits of the city, any type, size or shape of lake, pond or reservoir, except when approved by the governing body by resolution. Any person, persons, business or other entity violating the provisions of this section shall upon conviction be punished by a fine of not more than \$2,000. The city shall have the right to cause the site of such lake, pond or reservoir to be restored to its original state as before the construction of such lake, pond or reservoir and that the reasonable costs of such restoration shall be charged against the violator of this section.
(Ord. 388)

7-114. PENALTY. Any person who shall violate any provision of this article, other than section 7-113, or any provision of any rule or regulation adopted by the code enforcement officer, city inspector or representative from the Sedgwick County Department of Community Health pursuant to authority granted by this article shall, upon conviction thereof, be punished by a fine in accordance with the general penalty provisions set out in section 1-121 of this code. Each day that any violation of this article continues shall constitute a separate offense and punishable hereunder as a separate violation.
(Code 1971, Sec. 7-114; Code 1984; Code 2003)

7-115. FOOD HANDLER'S CARDS. No person operating a restaurant subject to annual inspection by the State of Kansas shall allow any employee to engage in any food handling whatsoever unless the employee has attended a food handlers instructional class that is provided or approved by the Wichita/Sedgwick County Health Department. Each employee shall maintain in his or her possession a food handler's card issued by the health officer certifying that the employee has received such instruction or has passed such examination.

A copy of such food handler's certificate shall be maintained at the business, and shall be shown to any City code Inspector/Enforcement Officer who requests to view such certificate. This section shall be administratively enforced through Article 5-101, business licensing and registration. Additionally, the owner or manager of any such business may be prosecuted for failing to maintain proof of valid food handler's certificates for all employees pursuant to 7-114 above.
(Code 2010)

ARTICLE 2.
SOLID WASTE CODE

7-201. **SOLID WASTE CODE INCORPORATED.** In accordance with K.S.A. 12-3301, et seq., the Solid Waste Management Plan Update January 2001 to 2002 as prepared and published by the Environmental Health Division, Sedgwick County Department of Community Health is hereby adopted by reference in its entirety to be applicable to the city. However, and notwithstanding any other provisions herein to the contrary, in the event any provisions contained within this article are in conflict with said code, then, and in that event, this article and the provisions hereof shall control. No fewer than three (3) copies of the Solid Waste Management Plan as incorporated by reference shall be on file with the city clerk to be available for inspection by the public at all reasonable business hours. The filed copies of the code shall be marked or stamped “Official Copy as Incorporated by the Code of the City of Haysville, Kansas.” All sections or portions of the filed copies of the standard code intended to be omitted or amended by further ordinance(s) shall be clearly marked to show any such deletion or amendment.

(K.S.A. 12-3009; Ord. 351; Sec. 1; Code 2003)

7-202. **TRASH CONTAINERS AND ACCESSIBILITY TO SOLID WASTE.** Each owner of each occupied single family dwelling and each multiple family dwelling, apartment and mobile home park shall make available to the occupants and the collector, residential trash containers herein defined or as provided for in section 7-107 which shall at all times be made available for convenient, unobstructed access to both the solid waste collector and the occupant. Access shall not be considered obstructed as long as the collector is able to pick up the container, whether or not the same is located in any unlocked fence or garage.

All dogs shall be kept away from the collector. No owner or occupant shall in any manner interfere with the solid waste collector in the lawful collection of solid waste. All containers shall be of a thirty (30) or thirty-five (35) gallon; or eighty (80) to one-hundred (100) gallon, self-contained wheel container size. All solid waste shall be entirely enclosed within the container(s), and yard waste in plastic sacks where used, and the area around the containers shall be kept neat and clear and free of solid waste.

(Ord. 351-B; Ord. 351-D; Sec. 2; Code 2003 Ord. 904; Ord 910; Code 2007)

7-202a. **REFUSE CONTAINERS**

- (a) **GENERAL STORAGE.** All solid waste shall be stored so that:
1. it does not attract birds; or rats, flies, mosquitoes or other disease vectors;
 2. it does not provide shelter or a breeding place for disease vectors;
 3. it does not create a health or safety hazard;
 4. it is not unsightly; and
 5. the production of offensive odors is minimized

(b) RESIDENTIAL. No garbage and trash receptacles shall be stored in a front yard a distance of more than six (6) feet from the front of the house. The requirement in this subsection shall not apply on those days that refuse collection has been scheduled for that location.

(c) COMMERCIAL. The owner or occupant of every institutional, commercial, industrial, business, apartment building with four or more residential units, or other non-residential establishment, from which solid waste collection is made under these regulations, shall place all solid waste in proper containers, including dumpsters, that have been designed and manufactured specifically for storage and collection of solid waste, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat, and sanitary condition at all times.

All solid waste containers, whether containing solid waste or not, shall be screened at all times other than when placed out for collection within the allowable collection time period, and such containers shall be located on an all weather surface located behind the existing building line or at another location approved in writing by the enforcing officer. Screening shall be provided to reasonably hide from ground level view all trash receptacles from public view. Walls and fences may be used in combination with berms and plantings to screen commercial trash receptacles from view on at least three sides when such trash receptacle is visible from adjoining street rights-of-way or from adjoining properties which are zoned to be used for residential purposes. Said all weather surface and screening shall be constructed pursuant to a permit issued by the city, and shall conform to the meaning of those terms as utilized by the nuisance and zoning codes of this city. The fee for said permit is hereby waived.

An exception to this section is made for certain industrially zoned properties. Solid waste containers located in areas zoned as industrial may be stored behind structures located upon the property to screen such containers from view from the street when such industrially zoned property is abutted by other industrially zoned property on all sides except for the street frontage. This exception specifically excludes industrially zoned properties abutting residential or commercial properties.

(d) NOTICE OF VIOLATION. Any person or entity the enforcing officer finds to be in violation of this section shall be served written notice of such violation. The city clerk, or the clerk's designee, shall cause notice to be served by certified mail, return receipt requested, or by personal service or, by posting notice at the property and in the City's newspaper, or in the event the owner or lessee thereof does not reside within the corporate limits of the city, by mailing such notice by certified mail, return receipt requested, to the owner's or lessee's last known address.

(1) The notice shall describe in writing the conditions constituting the violation.

(2) The notice shall also inform the person or entity receiving such notice that such person or entity shall have such time, to be specified in the notice

and not to exceed ten (10) days from the date specified in the notice, to remove and abate the violation from the property or premises.

(3) Notice of any specific violation of this section, including improper storage and improper screening of solid waste, once given, shall not be necessary again within a twelve month period. Such notice shall be deemed sufficient to inform such property owner or lessee of a violation of the requirements of sanitary and aesthetic storage of solid waste within the community.

(e) PROSECUTION.

(1) When the code enforcement officer determines that the property owner or lessee has failed to remove and abate the violation within the time set forth in the notice, or has allowed the violation to reoccur within twelve months of the initial notice of violation, the officer may file a complaint in the municipal court of the city against such person alleging a violation of this section.

(2) Failure to remove and abate the violation may also result in removal and abatement of the violation by the city as provided by section 7-205.

(3) Any person convicted of a violation of this section of this article shall be punished by a fine in accordance with the general penalty provisions set out in section 1-121 of this code. Each day that any violation of this article continues shall constitute a separate offense and be punishable hereunder as a separate violation.

(Ord. 904, 910)

7-203. DUMPING WASTE PROHIBITED. It shall be unlawful for any person to place, leave or dump any garbage, rubbish, trash or debris on any property, improved or vacant, not his or her own and without the direct and express permission of the property owner. Any health and sanitation ordinances shall continue to apply regardless of ownership of the property.

(Ord. 455, Sec. 1)

7-204. WEEKLY COLLECTIONS, NONPAYMENT OF BILLS. The occupant of all nonresidential premises and the owner of all single family dwellings and apartments and mobile home parks, shall arrange, contract and pay for the collection of, and have collected solid waste at least weekly by a solid waste collector licensed by the city and a valid permit obtained from the Sedgwick County Department of Community Health, with such service being at all times in accordance with the terms of this article, the Solid Waste Code of Sedgwick County, Kansas, adopted herein and the solid waste system of Sedgwick County, Kansas. If the utility committee referred to in this article or the Sedgwick County Department of Community Health determines that, in the interest of health and safety, there shall be more frequent collections, then the occupant or owner shall, within fourteen (14) days after receipt of such determination, commence the collection as recommended. It shall be the duty of every solid waste collector to notify the city clerk in writing within five (5) days whenever any customer is dropped by the collector for nonpayment of bills.

(Ord. 351-C, Sec. 3; Code 2003)

7-205. CITY'S RIGHT TO COLLECT. In addition to such other rights and remedies as may be allowed either in law or in equity or under the terms hereof, in the event said occupant and/or owner shall, for any reason, fail or refuse to comply with section 7-204, then and in that event the city may, in addition to any other rights, remedies or penalties provided for herein arrange for the collection and disposal of the solid waste and the owner shall be responsible for the cost of the collection and disposal.

(Ord. 351, Sec. 4)

7-206. NOTIFICATION. The city may assume the responsibility for the collection of solid waste for any nonresidential premises and shall assume the responsibilities for the collection of solid waste from any single family dwelling and multiple family dwellings and apartments and mobile home parks, only after the city has been notified and a determination made that the terms hereof have been violated. In such an event the city shall forward a seven (7) day written notice to the owner that solid waste has not been collected with the terms hereof. The owner shall have ten (10) days from the date of forwarding the notice to cause the solid waste to be collected. Notice shall be deemed properly served upon the owner if a copy thereof is served upon him or her personally, or if a copy thereof is sent by certified mail to the owner's last known address. The owner, for all purposes herein contained, shall be considered the taxpayer listed as such, in the ad valorem tax rolls of Sedgwick County, Kansas, unless the owner presents such written evidence as the "Utility Committee" may require to show that he or she has transferred ownership.

(Ord. 351, Sec. 5)

7-207. CITY'S OBLIGATION TO COLLECTOR. The city shall not be responsible for any collection of bills incurred prior to the date the city authorized collection and contracts for services to be rendered. The city shall pay to the collector such reasonable rates as may be negotiated. The collector shall not be paid until such time as the city has collected for its services from the owner.

(Ord. 351, Sec. 6)

7-208. RIGHTS AND REMEDIES. In the event the city, for any reason, collects the solid waste of any owner as herein provided, and in the event the bill for collection is not, for any reason, paid within sixty (60) days after mailing as herein provided, the cost of removal and collection of the solid waste shall be a lien against the real property of the owner. Such lien, including as a part thereof an allowance for costs, shall be assessed in the manner provided under the terms of K.S.A. 65-3410, which provides in part:

"Delinquent fees shall constitute assessments against the respective parcels of land and are a lien against the property for such delinquent fees. The assessments may be collected at the same time and in the same manner as ordinary ad valorem taxes are collected."

(Ord. 351, Sec. 7)

7-209. LICENSE REQUIRED OF COLLECTOR. All solid waste, excepting only as provided in the said Solid Waste Code for Municipalities, shall be collected by a person, firm or

corporation licensed by the city as well as by the Sedgwick County Department of Community Health and no contract shall be let to or agreement entered into with, or solid waste picked up by any other person, firm or corporation, unless same are so licensed.

(Ord. 351, Sec. 8; Code 2003)

7-210. **SOLID WASTE COLLECTION VEHICLE STANDARDS, MAINTENANCE AND LICENSING.** All solid waste collection vehicles of each solid waste collector shall be licensed, maintained and operated in accordance with the definitions and other sections of this code. Each solid waste collector other than governmental agencies, shall for each solid waste collection vehicle operated by the collector, pay an annual license fee as approved by the board of county commissioners. The board of county commissioners may arrange for reciprocity with the city in recognizing licensing by the city. Each solid waste collection vehicle when not in use shall be maintained or parked in accordance with the zoning or other regulations applicable in the city or county, and in any event in such a manner and location so as not to create a nuisance. No solid waste collection vehicle shall be stored or parked other than for collection purposes, or maintained on a public street or residential premises. Each solid waste collection vehicle prior to licensure each year shall receive such inspection as determined by the city to determine that such vehicle is operating in accordance with state statutes relating to safety and in accordance with the county solid waste management plan. Each solid waste collection vehicle shall be maintained in a safe and operable manner without production of excessive noise, be capable of providing collection services for which it is licensed or designated, including any necessary equipment, kept in a clean condition and appropriately painted.

- a. Each solid waste collector shall provide collection service in accordance with a schedule as agreed by such solid waste collector and his or her individual customers and/or the city. Each solid waste collector shall be responsible for replacing all solid waste dumpsters back into the screened area provided for such dumpster by the property owner/lessee. In the case of breakdowns of collection equipment the solid waste collector shall maintain standby equipment or otherwise arrange for collection service as scheduled.
- b. Residential solid waste collection service shall be scheduled and provided only during the hours of 6:00 a.m. and 7:00 p.m. on Monday through Saturday. Commercial solid waste collection service shall be scheduled and provided only during the hours of 3:00 a.m. and 7:00 p.m. on Monday through Saturday.

(Ord. 351-C, Sec. 5; Code 2003; Ord. 910; Ord. 989, Code 2013)

7-211. **EXEMPTIONS AND HEARINGS.** Any owner, or if applicable, occupant, required by this article to arrange and pay for the collection of solid waste collection services and disposal fee, may, when the owner, or, if applicable, occupant, is not in fact producing solid waste requiring the collection and disposal of solid waste as herein required, petition the utility committee, in writing, to provide relief from such fees and/or services. The owner shall supply the committee with such information and

complete such forms as they may require. The utility committee shall, after hearing such grievance make its recommendation to the governing body for final determination. If the utility committee determines that the collection of solid waste from the subject premises is not necessary or not required as frequently as provided for herein, it may recommend such partial relief as may be determined from the circumstance involved. If any aggrieved person is not satisfied with the utility committee's recommendation then the person may, within thirty (30) days after said determination, appeal in writing to the governing body; no collection services may be ceased or limited until thirty (30) days after the governing body makes its determination as hereinabove provided.

(Ord. 351-A, Sec. 10)

- 7-212. PENALTY. In addition, the municipal court is hereby authorized, upon proper motion, empowered and directed to abate or suppress any violation of this article and for the purpose of carrying out the provisions of this section, the municipal court is hereby authorized, after giving proper notice, to give to any city law enforcement officer or health officer the right to enter into or upon any premises or establishment for the purpose of making thorough examinations and for the further purposes of causing any violations to be abated or suppressed. Any person convicted of a violation of this article shall be punished by a fine in accordance with the general penalty provisions set out in section 1-121 of this code. Each day that any violation of this article continues shall constitute a separate offense and be punishable hereunder as a separate violation.

(Ord. 351, Sec. 12; Code 1984; Code 2003)

ARTICLE 3. COMMERCIAL COLLECTION, DISPOSAL; SOLID WASTE

- 7-301. COLLECT, DISPOSE: SOLID WASTE. No person, firm, company, corporation or other entity shall, within the city limits, collect or dispose of solid waste unless licensed by the appropriate Sedgwick County agency, and the city, and in addition, the collector or any collector shall at all times remain in compliance with the Solid Waste Code for Municipalities for Sedgwick County, Kansas, hereinafter referred to as code, and published by the Environmental Health Division of the Sedgwick County Department of Community Health, and with the terms of this article. In addition the collector shall at all times comply with all other federal, state and local rules, regulations and laws established by governmental entities or agencies having jurisdiction in the premises.

(Ord. 350, Sec. 1; Code 2003)

- 7-302. CONTRACTS. The city may be required under section 7-201:211 of this chapter and any additions or substitutions thereof which may be enacted by the city to contract

with licensed solid waste collectors for the collection of solid waste within the city limits.

(Ord. 350, Sec. 3)

- 7-303. COLLECTOR TO PROVIDE INSURANCE. Prior to any contract being let or executed the solid waste collector shall execute such contracts and applications as may be required by the governing body and, in addition, shall deliver to the city clerk the contracts of insurance herein provided for.

(Ord. 350, Sec. 4; Code 2003)

- 7-304. COLLECTOR TO SUBMIT EVIDENCE OF INSURANCE. The collector or any collector shall secure and maintain throughout the duration of any contract with the city and at all times when acting for and on behalf of the city, such insurance as is hereinafter required. The collector or any collector shall submit evidence of insurance with executed contract documents. Insurance shall be considered acceptable when provided in one of the following methods:

(a) By the issuance of the original policy designating the collector and the city by name as the insured parties under the provisions of the policy;

(b) By endorsement to an original policy when the endorsement shall extend to the city the same coverage and protection stipulated in the paragraph above;

(c) By separate contingent policy providing the required insurance coverage for the protection of the city.

A duplicate of the original of each policy shall be furnished showing specifically the coverage and limits together with the underwriter thereof for approval by the city. Regardless of such approval by the city, it shall be the responsibility of the collector to maintain adequate insurance coverage at all times and the failure to do so shall not relieve the collector or any collector of any contractual obligation or responsibility. The failure by any collector to maintain insurance coverage as required by this article shall be considered a failure in contract performance, a violation of this article and shall be treated as such by the city. Satisfactory certificates of insurance filed with the city shall note that thirty (30) days written notice will be given to the city and to the surety before any policy covered thereby is changed or canceled.

(Ord. 350, Sec. 5; Code 2003)

- 7-305. TYPES OF INSURANCE. The collector or any collector shall provide the following insurance and shall list the city as an additional insured and shall provide the city with a copy of the insurance certificate. Such policy or policies shall not be cancelable by the vendor upon less than thirty days notice to the city.

(a) Worker's Compensation and Employer's Liability. This insurance shall protect the collector or any collector against all claims under the worker's compensation law of the state of Kansas. In addition, the insurance procured by the collector shall protect the collector or any collector against claims for injury, disease or death of its employees that, for any reason, may not fall within the scope of coverage of collectors' worker's compensation insurance.

The liability insurance limits shall not be less than the following:

Bodily injury - \$100,000 each person

Bodily injury - \$300,000 each occurrence

Property damage - \$50,000 each occurrence

Such policy may be written to allow the first \$500 of a liability for damage to property to be deductible;

(c) General Liability. This insurance shall be written in comprehensive form and shall protect the collector or any collector against all claims arising from injuries to any person or damage to property of others arising out of any act or omission of the collector or any collector, and in addition, this policy shall specifically provide the collector or any collector protective liability insurance, and contractual liability insurance covering the obligations stipulated below. The collector shall provide and maintain insurance to protect the city against any and all claims for damages, for personal injury, including accidental death, as well as from collector, any of his or her subcontractors, or by anyone directly or indirectly employed by the collector or his or her subcontractors. The liability limits shall not be less than the following:

Personal injury - \$100,000 each occurrence

\$300,000 aggregate or single limit of \$300,000

Property damage - \$50,000 each occurrence

\$100,000 aggregate

Such policy may be written to allow the first \$500 of liability for damage to property to be deductible.

(Ord. 350, Sec. 6; Code 2003)

7-306.

DUTIES OF COLLECTOR. The collectors or any collector shall, by virtue of his or her contract or agreement with the city or by his or her acting on behalf of the city, bind himself or herself to indemnify, defend, punctually pay and save harmless the city and all of its officers, agents, representatives and employees from all suits, claims, demands or actions of every kind or description arising from or relating to any acts, omissions or negligence of the collectors or any collector, his or her employees, designees or subcontractors. The collectors or any collector shall likewise bind himself or herself to punctually pay, defend, indemnify and save harmless the city and all of its officers, agents, representatives and employees for and on account of any injury or damages received or sustained by the collectors or any collector, his or her designees, employees or subcontractors on account of any claim or amount recovered for royalty or infringement of patent, trademark, copyright or on account of any claim or amount recovered under the worker's compensation law.

(Ord. 350, Sec. 7; Code 2003)

7-307.

STREETS TO BE KEPT CLEAR. The collectors or any collector shall not obstruct streets or alleys. The collectors or any collector is granted the privilege of using the streets for the work specified, but he or she is not granted exclusive use of such streets. The collector or any collector shall handle the work in a manner which shall cause the least inconvenience to the public or property owners and shall perform his or her labors in a courteous, prompt manner.

(Ord. 350, Sec. 8)

7-308. PERMIT REQUIRED. No person, firm, company, corporation or other entity shall, within the city limits, collect or dispose of solid waste unless a permit is first obtained from the city clerk prior to the issuance of the license. The collectors or any collector shall deliver to the city clerk copies of certificates of insurance reflecting compliance with the safety responsibility laws of the state of Kansas and such insurance as may be required by the state of Kansas prior to the operation of a motor vehicle upon the highways of the state. The insurance shall be kept in full force and effect at all times and shall name the city of Haysville as an additional insured and collectors shall provide the city with a copy of the certificate of insurance. In addition, the collectors shall deliver to the city clerk written evidence that the collector has complied with the Solid Waste Code for Municipalities and this article and that the collector's vehicle or vehicles in all respects comply with the provisions of this code. In addition, the collectors or any collector shall, if applicable, deliver to the city clerk the insurance certificates required by this article, and such information as may be reasonably required to assure the governing body that the terms of this article are and will be complied with. The collectors or any collector and all employees shall at all times remain licensed to operate a motor vehicle under the laws of the state of Kansas.
(Ord. 350, Sec. 9; Code 2003)

7-309. ROUTE LISTS. Any collector collecting solid waste in the city shall make, keep and maintain a detailed, itemized written list setting forth the names and addresses of all resident owners and in addition, the names and addresses of any parties with whom the collectors or any collector has contracted for the collection of solid waste and the addresses from which the solid waste is being collected. Such list shall be made available to the city by the collectors or any collector upon request of the city.
(Code 1984)

7-310. REVOCATION OF LICENSE. Any and all contracts and licenses hereunder are subject to revocation for any violation of this article or upon the failure of the collectors or any collector to comply with any of the terms of the contract or license with the city or for any reason shall consider any work stoppage which interrupts the normal and regular collection of solid waste. In the event any collectors or collector shall fail to comply with any of the provisions of this article the city clerk may, with the consent of the governing body, upon ten (10) days notice to the collectors or collector, revoke and cancel any contract or license. Any collectors or collector may appeal such revocation order within ten (10) days to the governing body.
(Ord. 350-A)

7-311. LICENSE FEE. A license fee as set out in Chapter 17, for each license issued hereunder shall be paid to the city clerk. The license shall expire at the end of the calendar year regardless of when the license was issued.
(Ord. 350-C; Ord. 350-D; Code 2003; Code 2007)

- 7-312. PENALTY. The violation of any portion of this article shall be punished in accordance with the general provisions set out in section 1-121 of this code. Each day the violation continues shall be considered a separate offense. In addition, the municipal court is hereby authorized, empowered and directed to abate or suppress any violation of this article.
(Ord. 350, Sec. 13; Code 2003)

ARTICLE 4. NUISANCES

- 7-401. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain, cause or permit any nuisance within the city limits. For the purpose of this article “nuisance” shall mean:
- (a) Filth, excrement, lumber, brush, 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 or public or private enclosure or lot, whether vacant or occupied;
 - (b) Dead animals not removed within twenty-four (24) hours after death;
 - (c) Any place, structure or substance which emits or causes to be emitted any offensive, disagreeable, noxious or nauseous odors;
 - (d) Stagnant ponds or pools of water;
 - (e) All grass, weeds or other unsightly vegetation not commonly used for ornamental purposes, and not exempted as an approved indigenous planting, or not normally cultivated or grown for commercial or domestic use;
 - (f) Unused, unattended, damaged, or abandoned items found or located upon any street, avenue, alley, sidewalk, park or public or private enclosure or lot, whether vacant or occupied, including, such items to include but shall not be limited to, iceboxes, refrigerators, freezers, washers, dryers, dishwashers, hot water heaters or similar devices or equipment, or signs as defined within Chapter 16B, Article 2;
 - (g) Any thing or things that, by virtue of the place or manner in which it is or they are maintained, permitted, stored, positioned, placed or otherwise situated, injures, impedes, obstructs or hinders the public or any neighborhood to include maintaining or strewing items across property to that degree that results in an unsightly appearance constituting a blight to adjoining property, the neighborhood or the city. A blighting influence may be presumed based upon 1) the quantity of items strewn about or maintained upon a property being in excess of twelve (12), 2) the quality of items strewn across property being in a junked, wrecked, damaged, dismantled, deteriorating, inoperable, or abandoned state, and/or 3) evidence that vermin, noxious weeds, or other public health hazards are attracted to, protected by, or residing within such items.

(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; or,

(i) Any act or failure to act that causes or permits a condition to exist which injures or endangers the public health, safety or welfare;

(j) Salvage material, industrial material or commercial material located upon premises located within an area zoned for residential purposes, except building materials to be used within ninety (90) days in conjunction with a construction project on such premises;

(k) Piles or otherwise disorderly, un-stacked, accumulations of wood located upon any residential or commercial properties, or vacant lots in residential or commercial areas. Firewood may be stored in stacks at least (6) inches off the ground and must not be in contact with any adjacent structures. Mulch may be stored in piles that are no more than five (5) feet high and set back from any property line by ten (10) feet, and shall be appropriately screened by fence or other approved screening method to prevent mulch blowing onto adjoining properties or from being viewed from any public roadway.

(l) Any recreational vehicle or commercial storage not maintained on an all-weather surface.

(Code 2007; Code 2019)

7-401.1 NUISANCE AUTOMOBILES.

(a) Policy. The governing body of the city finds that junked, wrecked, dismantled, inoperable and abandoned vehicle(s), in and upon private real property within the city is a matter affecting the health, safety and general welfare of the citizens of the city for the following reasons:

Such properties and conditions serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

They are dangerous to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports, potential for entrapment, and because they are a ready source of fire and explosion;

They encourage pilfering and theft, and constitute a blighting influence upon the area in which they are located, thereby causing a loss in property value to surrounding property; and

They constitute a fire hazard in that they block access for fire equipment to adjacent buildings and structures, and leak environmentally harmful fuels and lubricants onto/into the ground.

(b) Definitions.

(l) any passenger vehicle, automobile, trailer, camper top or shell, motor home, recreational vehicle, pickup camper, boat or other device or means of conveyance, other than a bicycle, which is:

(A) Located in the front yard of any residential or commercial property,
or

(B) Located in side yard of any residential or commercial property and not kept or maintained on an all weather surface free of weeds or grass or from other debris; or

(2) any motor vehicle or other means of conveyance other than a bicycle which is:

(A) required by any applicable law to be registered and which does not have displayed thereon a current registration plate or temporary permit or placard;

(B) any motor vehicle or other means of conveyance, other than a bicycle, which is parked in violation of any ordinance of the city;

(C) any motor vehicle or other means of conveyance, other than a bicycle, which is incapable of moving under its own power;

(D) any motor vehicle or other means of conveyance, other than a bicycle, which is junked, wrecked or inoperable. For purposes of this article, any one or more of the following conditions shall raise a rebuttable presumption that any motor vehicle or other means of conveyance, other than a bicycle, upon which such condition or conditions is or are found, is junked, wrecked or inoperable:

(i) absence of display of current registration;

(ii) placement of such vehicle or other means of conveyance, or parts thereof upon jacks, jack stands, blocks or other supports; or

(iii) absence of one or more parts of such vehicle or other means of conveyance when such part is necessary for the lawful operation upon streets, roads or highways.

(3) any motor vehicle parked in a residential yard shall be located on an all-weather or hard surface, as defined by the Haysville Zoning Code. Any motor vehicle not parked on an all-weather or hard surface when such vehicle is parked in an area located within a residential yard shall be declared a nuisance vehicle. If any language of the Haysville Zoning Code shall be deemed to be in conflict with this provision, the more restrictive interpretation shall govern.

(c) Exceptions. This section on nuisance automobiles shall not:

(1) be construed to prohibit lawfully zoned automotive businesses, or lawfully maintained parts cars (as defined within the City's zoning code) kept in compliance with all applicable zoning regulations and maintained on an all weather surface;

(2) apply to any person, firm, corporation or partnership or their agent with one vehicle inoperable for a period of thirty (30) consecutive days or less which is maintained in such a condition that it visually does not appear to be

inoperable, is not leaking fluids, and no portions of the vehicle, such as tires, doors, or hood are missing;

(3) apply to any person, firm or corporation or their agent who is conducting a business enterprise in compliance with existing zoning regulations and who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public using adjacent thoroughfares and to prohibit ready access to such vehicles by children, provided however, that nothing in this section shall be construed to authorize the construction of any such fence or screen where such construction is prohibited by ordinance;

(4) apply to any vehicle which is enclosed in a garage or other building;

(5) apply to a single inoperable vehicle stored within an enclosed and screened area of the backyard in a manner that is tidy and inoffensive to neighbors, protected by a weather resistant automobile cover in good condition, maintained upon an all weather surface in compliance with the definition as set forth in the City's zoning code.

(Ord. 817; Ord. 819; Code 2003; Ord. 906, Code 2007; Code 2015)

7-402. ENFORCING OFFICER; DEFINED. For the purposes of and to effect this article, the term "enforcing officer" means the public works director or the director's designee. All citations for violation of this code shall be issued by the enforcing officer.

Law enforcement officers shall be authorized to take reports from complainants, serve as witnesses to violations, and sign a complaint as a witness or victim.

(Ord. 817; Ord. 819; Code 2003; Ord. 906, Code 2007)

7-403. SAME; DUTIES. The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article including, but not limited to:

(a) Inspect properties and premises to detect, confirm or investigate reported or actual violations of this article;

(b) Seek orders from a court of competent jurisdiction for the purpose of entering upon premises or property when such officer, when exercising the power and authority vested in such officer by this article, has been denied entry to premises or property when engaged in the performance of such officer's duties under this article;

(c) Report to the governing body all nuisances said officer believes to exist within the city; and

(d) Receive such reports, complaints and petitions as may be provided for in this article.

(Ord. 817; Ord. 819; Code 2003)

7-404. COMPLAINT OF NUISANCE CONDITION; INQUIRY AND INSPECTION. The enforcing officer shall make inquiry and conduct inspections of property or premises:

- (a) upon receiving a written complaint or complaints signed by an individual stating that a nuisance exists and describing the same and its location;
- (b) upon receiving information that a nuisance may exist from any governmental entity, officer or employee; or
- (c) when it appears to the enforcing officer that conditions constituting a nuisance exist.

The enforcing officer shall, upon making inspection and inquiry, make immediate written report of such officer's findings in compliance with departmental policy and this code..

(Ord. 817; Ord. 819; Code 2003; Ord. 906; Code 2007; Code 2015)

7-405. **RIGHT OF ENTRY.** The enforcing officer has the right of access and entry upon any public or private property, at any reasonable time to make inquiry and inspection to determine if a nuisance exists, and to effect any other purposes of this article.

(Ord. 817; Ord. 819; Code 2003)

7-406. **UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere or attempt to interfere with, or to prevent or attempt to prevent, the enforcing officer and/or the service agent, or any contractor authorized by the City to abate such nuisance, from entering upon any property, or from proceeding with abating any nuisance described in 4-101 and 4-101.1, or from accomplishing any other lawful purpose of this article. Any person violating this section shall be guilty of a violation of this article and shall be subject to such fines and penalties as provided for in section 7-408(b).

(Ord. 817; Ord. 819; Code 2003; Ord. 906)

7-407. **ADMINISTRATIVE ACTION; NOTICE TO ABATE; PROOF OF COMPLIANCE.** (a) The enforcing officer shall provide written notice to the owner or lawful agent in charge of any premises in the city upon which a nuisance condition exists in violation of this article. If the property is occupied by a non-owner, such occupant shall also receive notice of the violation. Such notice shall be served upon such owner, occupant or agent in charge by certified mail, return receipt requested, or by personal service, door hangers, conspicuously posting notice of such order on the property, personal notification, communication by telephone, or first class mail. Notice shall also be provided in accordance with 7-416 if applicable. 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, and shall include the following information:

- (1) Specific notice in the form of an administrative order that the property is being maintained in violation of this article.
- (2) An administrative order directing the owner or lawful agent in charge of the property to abate the nuisance condition within five (5) days of the date of the notice, such compliance date to be stated on the face of the notice.
- (3) Notice within the administrative order that the owner, or lawful agent of the owner may appeal the notice by requesting, before the compliance date in a

written notice of appeal directed to the city clerk, an administrative hearing as provided for within this Article. A lawful agent may be identified by a valid power of attorney, or other similar legal designation. If the described nuisance has been determined by the compliance officer to represent a menace or immediate danger to the community, such nuisance condition shall be made safe pending the outcome of the administrative hearing. The Director of Public Works shall either approve the temporary safety measures undertaken by the property owner, occupant, or agent in charge, or shall cause the nuisance condition to be made safe.

- (4) Notice within the administrative order that if the nuisance condition is not corrected, the city may proceed to abate such nuisance condition and assess the cost of the abatement, including any reasonable administrative fee as provided within K.S.A. 12-1617e(d) and K.S.A. 12-1,115.
- (5) Notice within the administrative order that an opportunity will be provided for payment of the assessment and, if the assessment is not paid, the city shall cause an amount equal to such assessment to be assessed against the property as a special assessment.
- (6) Notice within the administrative order that no further notice shall be given prior to removal of a nuisance condition upon such property after the five (5) day period provided herein. And,
- (7) Notice within the administrative order that the enforcing officer should be contacted immediately if there are any questions regarding compliance with the administrative order.

(b) The owner, occupant, or agent in charge of the property shall provide proof to the enforcement officer of the completion of the abatement of the nuisances described within the notice provided pursuant to subsection (a).
(Code 2015)

7-408.

UNIFORM COMPLAINT AND NOTICE TO APPEAR; RIGHT TO PROCEED; FINES AND COSTS. (a) In addition to the administrative process described within 7-407, the enforcing officer is hereby authorized to issue to the owner, occupant or agent in charge of the property a uniform complaint and notice to appear in municipal court charging a violation of the applicable section of this article. Should such owner, occupant or agent in charge of such property contest the charge, the city shall not be precluded from otherwise abating the nuisance created thereby during the pendency of the case through administrative or civil action.

(b) Any person found guilty, or entering a plea of guilty or nolo contendere to violating any section of this article shall be fined as set forth within Chapter 17 of this Code.

(c) Any person convicted and fined pursuant to this article shall also be assessed court costs as provided by city ordinance chapter 17, fee schedule, of the Haysville city code, compliance with the administrative order described in 7-407,

mailing costs, and costs of both temporarily making the nuisance condition safe and abatement may be ordered as either additional costs of the action or as restitution, as applicable.

(Code 2015)

7-409.

ABATEMENT BY CITY; PROCEDURE.

(a) If within five (5) days after the compliance date as set forth with the administrative notice as required by section 7-407 the owner, occupant or agent in charge of the premises neglects or fails to comply with the directives contained in the notice, and such owner, occupant, or agent in charge fails to timely file a notice of administrative appeal, the enforcing officer shall abate the nuisance in conformance with the provisions of this article. This provision shall also apply if the owner, occupant or agent in charge of the premises neglects or fails to comply with any decision of a hearing panel within either five (5) days, or such other time as determined by the hearing panel.

(b) The costs incurred by the city for any action undertaken by the enforcing officer pursuant to or incidental to this article shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, service and/or mailing of notices and publication of notices, required by this article. The city clerk shall immediately cause the reporting and accounting required by this section to be entered in the appropriate city record and shall report the same to the governing body.

(c) The city clerk shall, within ten (10) days of receipt of the enforcing officer's report of costs, give notice by restricted mail to the owner, occupant or agent in charge of the property of the costs required to be reported by subsection (b) of this section and such notice shall include a statement requiring payment of the costs to the city within thirty (30) days following receipt of such notice. Should the owner, occupant or agent in charge of the property refuse to take delivery of the notice and return is made to the city indicating such refusal, the city clerk shall send to the owner, occupant or agent in charge of the property, by first class mail, the notice previously sent and receipt by the owner, occupant or agent in charge of the property shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice. If the owner, occupant, or agent in charge fails to take receipt for undetermined reasons, the City Clerk may publish notice once in the City's newspaper.

(Ord. 817; Ord. 819; Code 2003; Ord. 906; Code 2007; Code 2015)

7-410.

ADMINISTRATIVE APPEAL; HEARING. (a) If the recipient of the notice of abatement makes a request for hearing to the city clerk prior to the compliance period as described with 7-407 above, then the City shall schedule a hearing before a designated hearing panel as soon as practicable. If the nuisance condition is deemed by the compliance officer to represent an immediate menace or danger to

the health of the inhabitants of the community, such nuisance condition shall be made safe by either the party responsible for the property, or the City. Costs of such temporary action shall be additional costs of this nuisance abatement action. At the hearing, the hearing panel shall hear all evidence submitted by the owner, the owner's designee, lien holders of record, occupants or other parties in interest in the property upon which the nuisance is situated and all evidence submitted by the city. The hearing provided for in this section need not be conducted according to formal rules of evidence.

(b) The hearing panel shall prepare a written description of findings and an appropriate order. The order shall be sent by certified mail to all parties with a legal interest in the property within five (5) days of the conclusion of the hearing, unless otherwise stated at the hearing. The hearing panel's order shall describe the relevant facts relied upon, state the specific Code provisions being relied upon, and state any such other stipulations, methods of abatement, or orders as deemed necessary by the hearing panel. If abatement is ordered, the order shall also fix a reasonable period of time, not more than ten (10) days from the date of publication, unless for good cause shown the hearing panel provides for the opportunity for an extension of time, to complete the abatement of any nuisances found by the hearing panel, and a statement that if the person or entity or owner fails to complete the abatement within the time provided, the enforcing officer shall cause the nuisance to be removed and abated in compliance with this article.

(c) The determination by the hearing panel shall be a final order of the city, and appeals of this action may be taken as allowed by law.

(d) The hearing panel shall be designated by the Mayor, and shall consist of three members: a chair and two others, all with an equal vote. All actions shall be by majority vote. The chair of the hearing panel shall be a member of the governing body representing the ward wherein the violation is alleged to have occurred.

(e) All findings of the hearing panel shall be forwarded to the governing body for informational purposes.

(Ord. 817; Ord. 819; Code 2003; Ord. 906; Code 2007; Code 2015)

7-411. **AUTHORIZATION TO CONTRACT FOR SERVICES.** The enforcing officer is hereby authorized to contract for and obtain such services and equipment, public or private, the officer deems necessary and appropriate to complete the tasks enumerated herein, and the enforcing officer shall adhere to and comply with all applicable laws, regulations, ordinances and city policies concerning procurement of services and equipment. The City and/or any authorized contractor shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property.

(Ord. 817; Ord. 819; Code 2003; Ord. 906; Code 2007)

7-412. **SITE TO BE MADE SAFE.** Part of removal and abatement of any nuisance pursuant to this article or otherwise, is removing the menace and danger to the health of the community. Thus, the person, entity or owner shall take any and all action necessary to make the premises safe. In the event the owner fails to abate the nuisance as prescribed by this article, or abates the nuisance by creating another

menace or danger to the community, the enforcing officer may proceed to make the site safe, and such costs shall be included as costs of this action.

(Ord. 817; Ord. 819; Code 2003; Code 2015)

7-413.

ASSESSMENT, FUNDING AND PAYMENT OF COSTS. (a) Should the costs remain unpaid after thirty (30) days of receipt of the notice by the owner, the city clerk, or designee, may sell any salvage from the removal and abatement process and apply the proceeds of such sale to pay said costs. Any proceeds received which are in excess of said costs shall be remitted to the owner within thirty (30) days of the conclusion of the sale.

(b) Should the proceeds of any sale held pursuant to section 7-413 be insufficient to cover said costs or if there exists no salvage, the city clerk shall, at the time required by law for the certification of other city taxes, certify the unpaid portion of said costs to the Sedgwick County Clerk for extension of the same on the county tax rolls against the property upon which the structure was located.

(c) In addition to levying a special assessment against the property upon which the structure was located as provided for in this section, the city may also elect to collect the unpaid portion of the costs provided for herein in the manner provided by K.S.A. 12-1,115 and amendments thereto, may pursue such remedy without limiting its ability to levy the special assessments, but only until such time as the full costs and any applicable interest has been paid in full.

(d) If there is no salvageable material, or if the moneys received from the sale of salvage are insufficient to pay the costs incurred by the city pursuant to this article and/or the costs associated with the notices required by this article, such costs or any portion thereof in excess of that received from the sale of salvage may be financed, until such time as the costs are paid out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued, the governing body shall make a tax levy at the tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in Article 19 of Chapter 70 of the Kansas Statutes Annotated and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940 and amendments thereto, except they shall not bear the notation required by said section and may be issued without approval of the state Board of Tax Appeals.

(Ord. 817; Ord. 819; Code 2003)

7-414.

DISPOSITION OF MONEYS RECEIVED. When and if paid, all moneys received from special assessments levied under the provisions of this article, or from an action under K.S.A. 12-1,115 and amendments thereto, shall be placed in the general fund of the city.

(Ord. 817; Ord. 819; Code 2003)

7-415.

IMMEDIATE HAZARD.

(a) When the enforcing officer believes that any real or personal property constitutes an immediate health or safety hazard, the officer shall inform the Mayor,

Director of Governmental Services, or the Director of Public Works. At the direction of any of those three named City Officials the enforcing officer is authorized to take immediate action to secure the property, and shall place the matter before the governing body at their next regularly scheduled meeting for a determination that a nuisance exists which constitutes an immediate hazard.

(b) When in the governing body's opinion any nuisance exists which constitutes an immediate hazard requiring immediate action to protect the public or adjacent property, the governing body may direct the enforcing officer to take immediate action, without delay, to protect the safety of persons and properties including, but not limited to, the erection of barricades, or causing the property upon which the nuisance is located to be vacated or otherwise made safe. Such action by the governing body and enforcing officer may be taken without prior notice or hearing of the owners, agents, lien holders, occupants or other parties in interest. The costs of any action under this section shall be reported and documented, notice of costs shall be afforded and the costs shall be assessed in the same manner as provided in section 7-413.

(c) An "Immediate vehicle hazard" means any unattended vehicle which has been placed on jacks, blocks or a stand unless such vehicle is placed in a garage or other building, or any vehicle leaking excessive amounts of a poisonous or flammable liquid.

(Ord. 817; Ord. 819; Code 2003; Ord. 906; Code 2007)

7-416.

NOTICE TO OWNER.

(a) Notwithstanding any other provision of this article or of law, prior to assessment of costs as a tax lien against the property, any and all notices required by this article shall also be served upon the owner or, in the event the property or premises is unoccupied and the owner thereof does not reside within the corporate limits of the city, by mailing such notice by certified mail, return receipt requested, to the owner's last known address. If the property owner fails to accept notice, or if the property owner cannot be identified, the City shall publish the notice of violation one time within the City's newspaper.

(b) Should there occur a change in the record owner of title to property subsequent to the giving of notice pursuant to this section, the city may not recover any costs or levy an assessment for costs of abatement or correction of a nuisance condition on such property unless the new record owner of title to such property is provided notice as required by this article.

(Ord. 817; Ord. 819; Code 2003)

7-417.

SEVERABILITY. In the event any section or part of this article is found by a court of competent jurisdiction to be invalid, such findings shall not affect the validity of the remaining sections or provisions and such remaining sections or provisions shall remain valid and enforceable.

(Ord. 817; Ord. 819; Code 2003)

ARTICLE 5.
UNSAFE OR DANGEROUS STRUCTURES

7-501. PURPOSES. The governing body has found that there have existed, do exist and may exist from time to time in the future, within the corporate city limits, structures which are unfit for human habitation or use because of dilapidation, defects or conditions creating the hazards and risks of fire, accident or other catastrophe, structural defects, deterioration or other conditions which render such structures unsafe, dangerous, unsanitary, hazardous or otherwise inimical to the general welfare of the city or conditions which provide a general blight upon the neighborhood or surrounding properties in and around said structures. It is hereby deemed necessary by the governing body to require or cause repair, closing, rehabilitation, removal or demolition of such structures as provided in this article.
(Ord. 763; Ord. 814; Code 2003)

7-502. DEFINITIONS. For and to effect the purposes of this article, the following words, terms and phrases shall have the following meaning:

- (a) Enforcing Officer: Means the public works director of the city or such director's designee or authorized representatives.
- (b) Structure. Shall include any building, wall, superstructure or other structure which requires location on or attachment to the ground or attachment to a surface or thing directly to the ground.
- (c) Abandoned Property: Means any residential or commercial real estate for which taxes are delinquent for the preceding two (2) years and which has been unoccupied continuously by persons legally possessed of such property for the preceding one year.
- (d) Organization: Means any nonprofit corporation organized under the laws of the state of Kansas having among its purposes the improvement of housing.
- (e) Rehabilitation. Any process of improving the property including, but not limited to, bringing property into compliance with applicable fire, housing and building codes.
- (f) Parties in Interest. Means any owner or owners of record or their agent(s), judgment creditor, lienholder, tax purchaser, occupant or party having any legal or equitable title or interest in the property.
- (g) Last Known Address. Includes the address where the property is located or an address as listed in the tax records.
- (h) Low or Moderate Income Housing. Means housing for persons and families with incomes within limitations prescribed by the federal Department of Housing and Urban Development pursuant to Section 8 of the federal Housing and Community Development Act of 1937 as amended.
- (i) Governing Body: Means the mayor and city council of the city of Haysville.
(Ord. 814: Code 2003)

- 7-503. ENFORCING OFFICER; DUTIES. The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article including, but not limited to, the following:
- (a) Inspect any structure which appears to be unsafe, dangerous, hazardous or unfit for human habitation, and to enter upon premises or property upon which is located any structure at reasonable hours for the purposes of making inspection;
 - (b) Seek orders from a court of competent jurisdiction for the purpose of entering upon premises or property upon which a structure is located when such officer has been denied entry by the owner or occupant of such premises or property;
 - (c) Report to the governing body all structures which said officer believes to be unsafe, dangerous, hazardous or unfit for human habitation;
 - (d) Receive such reports and petitions as may be provided for in this article.
- (Ord. 763; Ord. 814; Code 2003)
- 7-504. PROCEDURE; PETITION; ENFORCING OFFICER'S INITIATIVE; PRELIMINARY INVESTIGATION AND REPORT OF FINDING. Whenever there is filed with the enforcing officer or city clerk a petition by and bearing the signatures of at least five (5) residents of the city charging that any structure within the city is unsafe, dangerous, hazardous or unfit for human habitation and identifying the location of such structure, the enforcing officer shall, after making or causing to be made a preliminary investigation, report such petition and officer's findings to the governing body. In the event no petition is filed with the enforcing officer or city clerk as provided herein, the enforcing officer may, of the officer's own initiative, file with the governing body a written statement that any structure appears to be unsafe, dangerous, hazardous or unfit for human habitation. All written statements submitted to the governing body by the enforcing officer pursuant to this section shall describe the structure and its location. The enforcing officer shall be available upon request of the governing body to appear before it to provide additional information.
- (Ord. 763; Ord. 814; Code 2003)
- 7-505. SAME; NOTICE. Upon receiving a report as provided in section 7-504, the governing body shall by resolution fix a time and place at which the structure's owner, the owner's agent and any party in interest may appear before the governing body and show cause why the structure should not be condemned and ordered repaired or demolished.
- (Ord.763; Ord. 814; Code 2003)
- 7-506. SAME; PUBLICATION AND NOTICE. (a) The resolution provided for in section 7-505 shall be published once each week, on the same day of each week for two (2) consecutive weeks, in the official city newspaper. At least thirty (30) days shall elapse between the last publication and the date fixed for the hearing.
- (b) Within three (3) days of the first publication, the city clerk shall cause a copy of the resolution to be mailed by certified mail, marked "deliver to addressee"

only,” to the structure’s owner, the owner’s agent and any party in interest at the last known address.

(Ord. 763; Ord. 814; Code 2003)

7-507.

SAME; HEARING, FINDINGS; RESOLUTION; CONTENTS; NOTICE.

(a) On the date fixed for the hearing or any adjournment or continuation thereof, the governing body shall hear all evidence submitted by the owner, the owner’s agent, lienholders of record, occupants or other parties of interest in the structure and all evidence submitted by the enforcing officer filing the statement. Upon hearing such evidence, the governing body shall make findings by resolution.

(b) If, after notice and hearing as provided for in this article, and upon hearing the evidence provided for in subsection (a) of this section, the governing body determines that a structure is unsafe, dangerous, hazardous or unfit for human habitation, it shall set forth in writing in the form of a resolution its findings of facts supporting such determination. The resolution shall also fix a reasonable period of time, to be determined by the governing body, within which the repair, removal or demolition of the structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time period established by the resolution, or fails to diligently prosecute and pursue the same until the work is completed, the governing body shall cause the structure to be razed and removed. The resolution provided for in this section shall be published once in the official city newspaper and the city clerk shall mail a copy of the resolution to the structure’s owner and any party in interest at the last known address in the same manner as provided for the notice of hearing.

(c) If the governing body finds that the structure is abandoned property, the governing body may authorize the rehabilitation of such property as provided for by section 7-517. Such findings and authorization shall be set forth in the resolution provided for in this section.

(Ord. 763; Ord. 814; Code 2003)

7-508.

DUTY OF OWNER. It shall be the duty and obligation of any owner of a structure within the city which knows, or should know, or which is found pursuant to the provisions of this article to be unsafe, dangerous, hazardous or unfit for human habitation, to render the structure secure and safe, or to cause its removal or demolition.

(Ord. 763; Ord. 814; Code 2003)

7-509.

FAILURE TO COMPLY. (a) If, within the time specified in the resolution provided for in section 7-507, the owner fails to comply with said resolution and any orders contained therein to repair, alter, improve or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved, vacated or closed.

(b) If, within the time specified within the resolution provided for in section 7-507, the owner fails to comply with said resolution and any order contained therein to remove or demolish the structure, the enforcing officer may cause the structure to be removed or demolished.

(Ord. 763; Ord. 814; Code 2003)

- 7-510. SITE TO BE MADE SAFE. Upon removal of any structure pursuant to this article or otherwise, the owner shall fill any basement or excavation located upon the premises upon which was located the structure, secure all utilities and shall take any other action necessary to leave the premises in a safe condition. In the event the owner fails to take such actions as are prescribed by this section, the enforcing officer may proceed to make the site safe.

(Ord. 763; Ord. 814; Code 2003)

- 7-511. AUTHORIZATION TO CONTRACT FOR SERVICES. In the event the owner fails to comply as set forth in section 7-509 and it becomes necessary for the enforcing officer to repair, alter, improve, vacate, close, remove or demolish the structure, and/or make the site safe as provided for in this article, the enforcing officer is hereby authorized to contract for and obtain such services and equipment, public or private, the officer deems necessary and appropriate to complete tasks enumerated herein, and the enforcing officer shall adhere to and comply with applicable laws, regulations, ordinances and city policies concerning procurement of services and equipment.

(Ord. 763; Ord. 814; Code 2003)

- 7-512. ASSESSMENT, FUNDING AND PAYMENT OF COSTS. (a) The costs incurred by the city for any action undertaken by the enforcing officer pursuant to or incidental to sections 7-509 and 7-510 shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, required by this article. The city clerk shall immediately cause the reportings and accountings required by this section to be entered in the appropriate city record and shall report the same to the governing body.

(b) The city clerk shall, within the ten (10) days of receipt of the enforcing officer's report of costs, give notice by restricted mail to the owner of the structure of the costs required to be reported by subsection (a) of this section, and such notice shall include a statement requiring payment of the costs to the city within thirty (30) days following receipt of the notice. Should the owner refuse to take delivery of the notice and return is made to the city indicating such refusal, the city clerk shall send to the owner, by first class mail, the notice previously sent and receipt by the owner shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

(c) Should the costs remain unpaid after thirty (30) days of receipt of the notice by the owner, the city clerk may sell any salvage from the structure and apply the proceeds of such sale to pay said costs. Any proceeds received which exceed said costs shall be remitted to the owner within thirty (30) days of the conclusion of the sale.

(d) Should the proceeds of any sale held pursuant to section 7-512(c) be insufficient to cover said costs, or if there exists no salvage, the city clerk shall, at

the time required by law for the certification of the other city taxes, certify the unpaid portion of said costs to the Sedgwick County Clerk for extension of the same on the county tax rolls against the property upon which the structure was located.

(e) In addition to levying a special assessment against the property upon which the structure was located as provided for in section 7-512(d), the city may also elect to collect the unpaid portion of the costs provided for herein in the manner provided by K.S.A. 12-1,115 and amendments thereto, and may pursue such remedy without limiting its ability to levy the special assessment, but only until such time as the full costs and any applicable interest has been paid in full.

(f) If there is no salvageable material, or if the moneys received from the sale of salvage or from proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et. seq. and amendments thereto, are insufficient to pay the costs incurred by the city pursuant to this article and/or the cost associated with notices required by this article, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until such time as the costs are paid, out of the general fund or by the issuance of no-fund warrants. Wherever no-fund warrants are issued, the governing body shall make a tax levy at the tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940 and amendments thereto, except they shall not bear the notation required by said section and may be issued without approval of the State Board of Tax Appeals.

(K.S.A. 12-1,115; K.S.A. 12-49-3901; K.S.A. 79-2940; Ord. 763; Ord. 814; Code 2003)

7-513. DISPOSITION OF MONEYS RECEIVED. When and if paid, all moneys received from special assessments levied under the provisions of this article or from an action under K.S.A. 12-1,115 and amendments thereto, shall be placed in the general fund of the city.

(K.S.A. 12-1,115; Ord. 763; Ord. 814; Code 2003)

7-514. CERTIFICATION TO COUNTY APPRAISER. Whenever any structure is removed or demolished under the provisions of this article, the city clerk shall certify to the County Appraiser of Sedgwick County that such structure, describing the same, has been removed or demolished.

7-515. IMMEDIATE HAZARD. When, in the governing body's opinion any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public or adjacent property, the governing body may direct the enforcing officer to take immediate action, without delay, to protect the safety of persons and properties including, but not limited to, the erection of barricades; causing the property upon which the structure is located or the structure to be vacated, taken down, repaired, shored or otherwise made safe. Such action by the governing body and enforcing officer may be taken without prior notice or

hearing of the owners, agents, lienholders, occupants or other parties in interest. The authority described within this Section may also be exercised by the Mayor or Chief Administrative Officer, but emergency action ordered by any official other than the governing body, shall be brought to the governing body at the next regular meeting for report. The costs of any such action shall be assessed in the same manner as provided in Article 4 of this Chapter. Notice of the action, and any decision of the governing body shall be provided as set forth in Article 4 of this Chapter, and shall be published in the City's newspaper within one week of the decision of the governing body.

(Ord. 763; Ord. 814; Code 2003)

- 7-516. APPEALS FROM ORDER. Any person affected or aggrieved by an order issued by the governing body, or by any final order issued under the authority of this Article, may within thirty (30) days following such decision, petition the district court of Sedgwick County, Kansas, for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case.

(Ord. 763; Ord. 814; Code 2003)

- 7-517. REHABILITATION OF ABANDONED PROPERTY; PROCEDURE; REPORTS; REDEMPTION RIGHTS. In the event the governing body declares the property abandoned as defined by and pursuant to this article an organization may file a petition with the district court for an order for temporary possession of the property if (1) the organization intends to rehabilitate the property and use it for housing of low and moderate income persons and families and (2) the organization has sent notice to the enforcing officer and parties in interest by certified mail or registered mail, mailed to their last known address and posted on the property at least three (3) days but not more than sixty (60) days before the petition is filed of the organization's intent to file a petition for possession pursuant to K.S.A. 12-1750 through and including K.S.A. 12-1756(e) and amendments thereto and this article.

(a) The proceeding to obtain temporary possession of the property shall be in accordance with the proceedings prescribed by K.S.A. 12-1756(a) and amendments thereto.

(b) Any organization which has possession of property pursuant to this article and K.S.A. 12-1756(a) and amendments thereto shall file an annual report with the governing body concerning the rehabilitation and use of the property. The city shall require reports and status dates to be filed as it deems appropriate under the circumstances, but no less frequently than once a year. The report shall include statements of all expenditures made by the organization including, but not limited to, payments for rehabilitation, operation and maintenance of and repairs to the property, and for real estate taxes, and payments to mortgagees and lienholders during the preceding year and shall include statements of all income and receipts from the property for the preceding year.

(c) Redemption rights of organizations in temporary possession of property pursuant to this article shall be as established and set forth in K.S.A. 12-1756(c-e) and amendments thereto.

(K.S.A. 12-1756(a)(c-e); Ord. 763; Ord. 814; Code 2003)

7-518. SAME; ORGANIZATIONS INTERESTED IN REHABILITATION; ENFORCING OFFICER'S DUTIES. The enforcing officer shall maintain a list of all organizations interested in rehabilitating abandoned property who have requested to be included on such list. The enforcing officer may require that requests to be included on such list be submitted annually to the enforcing officer. The enforcing officer shall provide organizations on such list written notice of abandoned property which may be available for rehabilitation by any such organization.

(Ord. 763; Ord. 814; Code 2003)

7-519. SCOPE OF ARTICLE. Nothing in this article shall be construed to abrogate or impair the power of the courts or any department of the city to enforce any provisions of its charter, ordinances or regulations, nor prevent or punish violations thereof, and the powers and authority conveyed and conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution and any other laws, ordinances or regulations. 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 or to exercise those powers granted specifically by K.S.A. 12-1750 through and including K.S.A. 12-1756 and amendments thereto.

(K.S.A. 12-1750; K.S.A. 12-1756; Ord. 763; Ord. 814; Code 2003)

7-520. SEVERABILITY. In the event any section or part of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining sections or provisions and such remaining sections or provisions shall remain valid and enforceable.

(Ord. 763; Ord. 814; Code 2003)

ARTICLE 6 WEEDS

7-601. 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 property or premises to permit weeds as hereinafter defined to exist or 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 limited to, sidewalks, streets, alleys, easements, rights-of-way and all other public or private areas. All weeds are hereby declared a nuisance and are subject to abatement as provided in this article. Any person violating this section shall be guilty of a violation of this article and shall be subject to such fines and penalties as provided for in this article.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

7-602. WEEDS DEFINED; PROHIBITED FROM CAUSING BLIGHT OR ADVERSE IMPACT. For the purposes of and to effect this article, Weeds means any of the following:

- (a) Brush and woody vines, rank grass, uncultivated plants, and unmaintained vegetation shall be classified as weeds;
- (b) Weeds and grasses which may attain such growth as to become a fire menace to adjacent property;
- (c) Weeds which bear or may bear seeds of a downy or wingy nature;
- (d) Weeds and grasses which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which may or does constitute a menace to health, public safety or welfare;
- (e) Weeds and indigenous grasses which, because of their height, have a blighting influence on neighboring property or properties. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed twelve inches in height, except when part of an approved indigenous grass planting.
- (f) Weeds as defined above growing on lots 1) upon which no dwelling is located or associated and 2) which are not actively being cultivated for agricultural purposes, as defined in K.S.A. 2-3201 et seq., shall be presumed to be blighting if they exceed eighteen inches in height; areas of easement located between sidewalks and roadways shall not exceed twelve (12) inches in height. Alternatively, maintenance plan for subdivision developments under construction may be submitted to the City by the project developer for approval by the Director of Public Works. Such maintenance plans shall be considered for approval if appropriate for specific area and construction timeline of the project. The City may require modification of the maintenance plan at any time to conform to changing environmental and other conditions.
- (g) The owner, or lessee, of any large lot which is mowed to preserve grasses and weeds for animal feed purposes (prairie hay) shall notify the City of such intentions, and provide the office of the City Clerk a mowing schedule for such lot. Failure to cut grasses and weeds upon such lot in conformance with the mowing schedule as provided can result in a substantial adverse effect on the public health and safety as set forth in (b) or (d) above, and shall result in a notice to remove as described in this article.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855; Ord. 955; Code 2011)

7-603. ENFORCING OFFICER DEFINED. For the purposes of and to effect this article, Enforcing Officer means the Director of Public Works or his designee or designees.

(Ord. 812; Ord. 855; Code 2012)

7-604. SERVICE AGENT DEFINED. For the purposes of and to effect this article, Service Agent means any person and/or entity that the enforcing officer contracts for and obtains such services and equipment to remove and abate the weeds.

(Ord. 855)

7-605. ENFORCING OFFICER; DUTIES; NOTICE TO REMOVE. The enforcing officer shall provide, once per calendar year, written notice to the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this article. Such notice shall be served upon such owner, occupant or agent in charge by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner, and such notice shall be published

once in the official city newspaper. Every such notice shall include the following information:

- (a) Specific notice that the owner, occupant or agent in charge of the property is in violation of this article.
- (b) An order directing the owner, occupant, or agent in charge of the property to cut the weeds within five days of the receipt of this notice;
- (c) Notice that the owner, occupant, or agent in charge of the property may appeal the notice by requesting, within five (5) days of receipt of the notice in a written notice of appeal directed to the governing body and sent to the city clerk, a hearing before the governing body or its designated representative;
- (d) Notice that if the owner, occupant, or agent in charge of the property fails to cut the weeds within five days of receipt of notice, the city may proceed to cut such weeds and assess the cost of the cutting, including any reasonable administrative fee, against the owner, occupant or agent in charge of the property;
- (e) Notice that the owner, occupant, or agent in charge of the property shall be provided an opportunity to pay the assessment and, if the assessment is not paid, the city shall cause an amount equal to such assessment to be assessed against the property as a special assessment as provided by this article.
- (f) Notice that no further notice shall be given prior to removal of weeds during the current calendar year; and,
- (g) Notice that the enforcing officer should be contacted if there are any questions regarding the order.

Notwithstanding any other provision of this article or of law, any and all notices required by this article which may be served upon tenants shall also be served upon the owner.

Should there occur a change in the record owner of title to property subsequent to the giving of notice pursuant to this section, the city may not recover any costs or levy an assessment for costs of cutting or destroying weeds on such property unless the new record owner of title to such property is provided notice as required by this article.

(Ord. 409, Sec. 2; Code 1984; Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

- 7-606. ABATEMENT; ASSESSMENT OF COSTS. (a) If within five (5) days after receipt of the notice required by this article the owner, occupant or agent in charge of the premises neglects or fails to comply with the directives contained in the notice provided for in this article, and such owner, occupant, or agent in charge fails to timely file a notice of appeal as provided in section 7-605(c), the enforcing officer shall cause to be cut, destroyed and/or removed all such weeds and shall abate the nuisance created thereby at any time during the current calendar year. The City and/or any authorized contractor shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property.
- If the property owner is a nonresident, abatement shall take place either five days following the date of receipt provided on the return receipt of mailing, or ten days following the date of publication in the City's newspaper, whichever date is first.
- (b) The costs incurred by the city for any action undertaken by the enforcing officer

pursuant to or incidental to sections 7-605 and 7-606 of this article shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, service and/or mailing of notices and publication of notices, required by this article. The city clerk shall immediately cause the reportings and accountings required by this section to be entered in the appropriate city record and shall report the same to the governing body.

(c) The city clerk shall, within ten (10) days of receipt of the enforcing officer's report of costs, give notice by restricted mail to the owner, occupant or agent in charge of the property of the costs required to be reported by subsection (b) of this section and such notice shall include a statement requiring payment of the costs to the city within thirty (30) days following receipt of such notice. Should the owner, occupant or agent in charge of the property refuse to take delivery of the notice and return is made to the city indicating such refusal, the city clerk shall send to the owner, occupant or agent in charge of the property, by first class mail, the notice previously sent and receipt by the owner, occupant or agent in charge of the property shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

(d) Should the costs remain unpaid after thirty (30) days of receipt of the notice provided for in this article, the city clerk shall, at the time required by law for certification of other city taxes, certify the unpaid portion of said costs to the Sedgwick County Clerk for extension of the same on the county tax rolls against the property upon which the weeds were located.

(e) In addition to levying a special assessment against the property upon which the weeds were located as provided for in this section, the city may also elect to collect the unpaid portion of the costs provided for in herein in the manner provided by K.S.A. 12-1,115 and amendments thereto, and may pursue such remedy without limiting its ability to levy special assessment, but only until such time as the full costs and any applicable interest has been paid in full.

(Ord. 409, Sec. 2; Code 1984; Ord. 670; Ord. 670-A; Ord. 670-B; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

7-607. **DISPOSITION OF MONEYS RECEIVED.** When and if paid, all moneys received from special assessments levied upon under the provisions of this article, or from an action under K.S.A. 12-1,115 and amendments thereto, shall be placed in the general fund of the city.

(Ord. 812; Ord. 855)

7-608. **AUTHORIZATION TO CONTRACT FOR SERVICES.** In the event the owner, occupant or owner's agent fails to comply as set forth in section 7-606 of this article and it becomes necessary for the enforcing officer to remove and abate the weeds, such officer is hereby authorized to contract with a service agent for and obtain such services and equipment, public or private, as the enforcing officer deems necessary and appropriate to complete the tasks enumerated herein, and the enforcing officer shall adhere to and comply with all applicable laws, regulations, ordinances and city policies concerning the procurement of services.

(Ord. 812; Ord. 855)

- 7-609. RIGHT OF ENTRY. The enforcing officer and/or service agent contracted by the city are hereby 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, and for the purpose of effecting any other lawful purposes of this article.
(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)
- 7-610. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere or attempt to interfere with, or to prevent or attempt to prevent, the enforcing officer and/or the service agent from entering upon any property or from proceeding with cutting and destruction of weeds, or from accomplishing any other lawful purpose of this article. Any person violating this section shall be guilty of a violation of this article and shall be subject to such fines and penalties as provided for in section 7-611(b).
(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)
- 7-611. UNIFORM COMPLAINT AND NOTICE TO APPEAR; NON-IMPAIRMENT; FINES AND COSTS. (a) In addition to the notice provided for in section 7-605, the enforcing officer shall issue to the owner, occupant or agent in charge of the property a uniform complaint and notice to appear charging a violation of section 7-601 of this article. Should such owner, occupant or agent in charge of such property contest the charge, the city shall not be precluded from cutting the weeds or otherwise abating the nuisance created thereby during the pendency of the case.
(b) Any person found guilty, or entering a plea of guilty or nolo contendere to violating section 7-601 or section 7-610 shall be fined as follows:
(1) Upon conviction for a first offense, by a fine of \$35.00, but the fine shall be waived if the violation was corrected within ten (10) days, and proof of such correction is verified by the enforcing officer.
(2) Upon conviction of a second offense, by a fine of \$75.00;
(3) Upon conviction of a third offense, by a fine of \$125.00;
(4) Upon conviction of a fourth offense, by a fine of \$250.00.
(c) Any person convicted and fined pursuant to this article shall also be assessed court costs as provided by city ordinance chapter 17, fee schedule, of the Haysville city code.
(Ord. 812; Ord. 855; Code 2020)
- 7-612. NOXIOUS WEEDS; NON-IMPAIRMENT. 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, which include, but is not limited to, 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*).
(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

- 7-613. **INDIGENOUS OR NATIVE GRASS AREAS.** Indigenous or Native Grasses include those species of perennial grass other than those designated as noxious weeds by the State of Kansas Department of Agriculture and Entomology.

Native grasses are being used more and more throughout the country as cities look to be more environmentally friendly and cost-effective. Native grasses have drought-resistant roots that descend up to 10' for extraordinary erosion benefits, and require little to no irrigation or fertilization. Perennial native grasses and shrubs re-seed themselves, but do not invade crop areas as they take two to three years to mature. In short, rights-of-way and other green spaces can be beautiful and low maintenance, helping reduce air pollution and lowering labor and equipment costs. A diverse prairie planting can showcase Kansas' beautiful wildflowers and sturdy native grasses, and provide year-round habitat for wildlife, including songbirds, small mammals, honey bees, and butterflies. Larger areas of native grasses can include grasses such as big and little bluestem and wildflowers such as prairie blazing star.

Indigenous/Native Grass plantings may be approved as part of an as approved planting and maintenance plan or landscape plan submitted and approved by an administrative committee comprised of the Mayor, Chief Administrative Officer, and Director of Public Works. Indigenous/Native grass areas may exceed the standard 12" height of domesticated grasses, but such areas will require some type of defined border, typically a mowed border, to create a defined zone of indigenous/native grass. Indigenous/Native grasses should be planted and maintained in accordance with those standards approved by the Kansas Extension Service. (Code 2016).

- 7-614. **SEVERABILITY.** In the event any section or part of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining sections or provisions and such sections or provisions shall remain valid and enforceable.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

ARTICLE 7. NUISANCE LIGHTING

- 7-701. No person shall install, maintain and/or use an outdoor visible light or other sources of illumination which is on private property and produces glare or direct illumination across a property line in a residential area of such intensity that it creates a nuisance or unreasonably interferes with the use or enjoyment of adjacent property.

- 7-702. For purposes of this section a light or other source of illumination which is on private property is considered a nuisance if it generates greater than 0.2 footcandles when measured perpendicular to the light source, 5 feet above the ground at the receiving property line.

- 7-703. Outside lights must be made up of a light source and reflector so that, acting together, the light beam is controlled and not directed across a property line.

- 7-704. This section shall not apply to street lights or lights installed, maintained and used in connection with the use and operation of any outdoor stadium; amphitheater, or athletic field which is open to the public.
- 7-705. Any light deemed a nuisance under this Ordinance shall be deemed a Nuisance under Chapter 7 Article 4 of the City Code.
(Ord. 1046; Code 2019)