

CHAPTER VII. HEALTH, SANITATION AND WELFARE

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ARTICLE 1. BOARD OF HEALTH

- 7-101 BOARD OF HEALTH. There hereby is created a board of health for the City of Washington. The board shall consist of the mayor, city clerk and the city marshal-chief of police of the city. The mayor of the city shall be the chairman of the board, and the city clerk shall be the secretary of the board. The board may adopt such rules and regulations as may be deemed necessary to carry out the provisions of this article, ordinances of the city and the statutes of the State of Kansas, in regard to health and vital statistics.
- 7-102 DUTIES OF THE BOARD. It shall be the duty of the board of health to prescribe rules and regulations to be approved by the city council of the city for carrying out the ordinances of the city and for carrying out the laws of the State of Kansas, relating to public health and vital statistics, and it shall perform such duties and have such powers as are imposed upon it by the ordinances of the city, and the laws of the State of Kansas.
- 7-103 PENALTY. Any person violating, refusing or neglecting to obey any of the rules and regulations or procedures made by the board of health of the city or by the state board of health for the prevention, suppression and control of dangerous, contagious, or communicable diseases, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense, or to imprisonment. Upon failure to pay such fine he shall be imprisoned in the city jail until same are paid.

ARTICLE 2. GARBAGE AND REFUSE COLLECTION

- 7-201 DEFINITIONS. The following terms are, for the purpose of this article, defined as follows:
- (a) "Authorized collector" means any individual, partnership, corporation, or other legal entity authorized and licensed by the city to collect and dispose of refuse and garbage.

- (b) “Garbage” means all putrescible wastes, except sewage and body wastes, but including vegetable and animal offal and carcasses of dead animals, and shall include food waste from homes, kitchens, apartments, hotels, restaurants, stores, markets and similar establishments.
- (c) “Refuse” shall mean all solid waste from residential, commercial or industrial premises. It shall include semi-liquid or wet waste with insufficient moisture and other liquid contents to be free flowing. It shall not include, except for minor amounts incidental to other wastes, any refuse resulting from building excavation, demolition, or remodeling work, or any construction work, however, all materials must be of a type acceptable for disposal at the Washington County sanitary landfill.
- (d) “Administrator” means the city administrator or his designee.

7-202 COLLECTION: REFUSE, GARBAGE. All refuse and garbage accumulated within the City of Washington shall be collected, conveyed and disposed of by authorized collectors specifically licensed to collect and dispose of refuse and garbage.

7-203 LICENSE.

- (a) Required. No person or entity shall engage in or carry on the business of an authorized collector of garbage and refuse within the city, for hire, unless such person has:
 - 1. A current license issued pursuant to this article;
 - 2. Any state or county permits which may, from time to time, be required.
- (b) Application. Application for a garbage and refuse collector license shall be made upon a form provided by the city clerk in accordance with the application procedures and the license fee required in Section 7-217 hereof. Such application shall disclose all information required to determine approval thereof. Prior to issuance, the completed application and all documents and fees required to be provided therewith shall be submitted to the city clerk’s office a minimum of five (5) days, Saturdays and Sundays excluded, prior to a meeting of the governing body.
- (c) Approval. The city clerk shall examine such application and documents and, when all requirements have been provided, shall submit such application to the governing body at the next regular meeting for approval or disapproval thereof.

(d) Issuance. A garbage and refuse collector license shall be issued by the city clerk after approval thereof has been granted by the governing body.

7-204 INSURANCE REQUIRED. An authorized collector shall maintain general liability insurance in an amount of at least one million dollars (\$1,000,000) and automobile liability insurance covering all vehicles used by an authorized collector in the conduct of his business in an amount of five hundred thousand dollars (\$500,000.00) combined single limits in full force and effect during the term for which the license is issued. A certificate of insurance showing evidence of such coverage shall be issued to the city.

7-205 TELEPHONE. Each authorized collector shall maintain a local telephone listed in his name.

7-206 CUSTOMER STATEMENT AND RECEIPT FORMS. Each authorized collector shall use, in the conduct of his business, customer statement and receipt forms which show thereon the name of the authorized collector, his address, his home telephone number and vehicle number.

7-207 BASIC FEE. Every authorized collector shall establish a basic fee to be charged for residential collections.

7-208 FREQUENCY OF COLLECTIONS-RESIDENCES. An authorized collector shall collect and remove garbage and refuse from dwellings, apartments and flats not less than once weekly during the entire year. Each customer shall be notified by his collector of the designated days of the week that the customer's garbage and refuse will be collected.

7-209 FREQUENCY OF COLLECTIONS-BUSINESS ESTABLISHMENTS. An authorized collector shall collect and remove garbage from business establishments not less than once per week and refuse not less than once per week; PROVIDED, that the city administrator may require and direct more frequent pickup of garbage and refuse from a business after taking into consideration the following factors:

- (a) The nature of the garbage or refuse;
- (b) The odor of the garbage or refuse;
- (c) Attractiveness to insects, rodents or other pests;
- (d) Nature of the storage container;
- (e) Such other factors that the city administrator may, from time to time, consider.

- 7-210 VEHICLES-EQUIPMENT. It is unlawful for any authorized collector to transport refuse or garbage over the streets, alleys or other public places of the city except by means of a vehicle designed, constructed or operated with a watertight compartment, which is completely covered or enclosed with a fly-tight cover or door. Refuse and garbage shall be carried only within such compartments and such compartment shall be kept closed except when garbage and refuse are actually being loaded or unloaded.
- 7-211 VEHICLES-SIGNS. Both sides of every vehicle used by an authorized collector shall be provided with a sign which displays the name of the authorized collector and his address, telephone number and number of his vehicle. Letters and numerals of the sign shall be distinct and a minimum of two inches in height.
- 7-212 VEHICLE-MAINTENANCE GENERALLY-INSPECTION. All vehicles used by an authorized collector shall be maintained in a clean and sanitary condition and shall be subject to inspection and approval by the city administrator. All vehicles shall be washed at least once a week. Every vehicle shall be maintained in good mechanical repair and is subject to a safety inspection by the Kansas Highway Patrol at the discretion of the City Administrator. (Ord. 730, Dec. 1, 2008)
- 7-213 VEHICLES-PAINTING OF BED. The bed of each vehicle used by an authorized collector shall be painted and shall be repainted when deemed necessary by the city administrator.
- 7-214 DISPOSAL OF REFUSE AND GARBAGE. All refuse and garbage transported upon any street or alley of the city by authorized collectors shall be delivered to any solid waste disposal facility approved and licensed by the state of Kansas.
- 7-215 CONDUCT OF COLLECTIONS. Every authorized collector shall handle all collections in such a manner as to avoid the spilling of garbage and refuse on the ground and shall be responsible for cleanup of any garbage and refuse spilled in the course of such collection.
- 7-216 REVOCATIONS OR SUSPENSION OF LICENSE. When written complaints are filed with the city clerk or city administrator specifying the details of any failure of a licensee to comply with the provisions of this chapter, the city administrator shall cause an investigation to be made and a written report of such investigation shall be submitted to the governing body for action thereon. If the governing body determines that the violations as stated in such report may be cause for revocation or suspension of such license, the governing body shall set a date for hearing on such revocation or

suspension and give notice, in writing, not less than fifteen (15) days prior to the date set for such hearing, to the licensee at his address as shown by the records of the city. Failure of the licensee to receive such notice shall not be a condition preventing the governing body from making a final decision on such revocation or suspension.

7-217 LICENSE FEES, TERM, AND RENEWALS.

- (a) The license fee for an authorized collector shall be the sum of fifty dollars (\$50.00) per yearly period, or any part thereof beginning on January 1st and ending on December 31st of each year. Any party desiring a license to be an authorized collector shall at the time of making application for such license pay a fee of fifty dollar (\$50.00) which shall not be refundable whether such license is approved or not. Said fifty dollars (\$50.00) payment shall be payment for the first year or part thereof in which it is paid and for which the license is issued.
- (b) No license fee shall be prorated.
- (c) Application for renewal of any license must be filed by December 1st in the year preceding the year for which renewal is made and the yearly license fee of fifty dollars (\$50.00) shall be paid at the time of filing the application for renewal.
- (d) All authorized collector licenses shall terminate as of December 31st each year unless renewed as herein provided.

7-218 STORAGE. It shall be the duty of every person, partnership, corporation or other entity owning, managing, operating, leasing or renting any premises or any place where garbage or refuse accumulates, to provide, and at all times to maintain in good order and repair, on each of the premises, a portable container or containers for refuse storage of sufficient capacity and of sufficient numbers to accommodate and securely hold all of the garbage and refuse that may accumulate between regular scheduled collections. All solid waste containers shall be stored on private property unless the owners shall have been granted written permission from the city to use public property for such purpose.

7-219 CONTAINERS. Refuse containers and garbage containers shall not be more than thirty-five (35) gallons nor less than ten (10) gallons in nominal capacity; except where only one (1) container is used, in which case this container may be less than ten (10) gallons in capacity. Containers shall be waterproof, rat proof, and fitted with a tight lid. The containers shall have handles, bails or other suitable lifting devices or features. The containers shall be of a type originally manufactured for refuse or garbage. They shall

be of lightweight and sturdy construction. Disposable bags manufactured for garbage and refuse disposal, in suitable frames or containers shall be acceptable. Oil or grease drums, paint cans, and similar salvaged containers shall not be acceptable.

- 7-220 BULK CONTAINERS. On premises where excessive amounts of refuse accumulates or where individual storage methods such as cans or bags are impractical, the occupant or the contractor may provide and maintain suitable bulk containers for the on-premise storage of refuse. The container shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. The doors and lids shall be constructed and maintained so that they can be easily opened and closed. The containers shall be of watertight, leak-proof and weatherproof construction and design.
- 7-221 COVERS, LIDS, DOORS. Covers, lids and doors on containers used for the storage of refuse and garbage shall be kept closed at all times except when depositing material in the container or removing the contents therefrom:
- (a) All refuse and garbage shall be placed in suitable containers; except, it shall not be necessary to place books, boxes, magazines, or newspapers in containers; PROVIDED, that they are securely tied in bundles or completely contained in disposable boxes not larger than twenty-four by twenty-four by thirty-six inches (24 x 24 x 36”).
 - (b) Baskets, boxes and non-complying refuse or garbage cans or containers shall be considered disposable refuse and may be removed by the collector if they are the proper size and otherwise acceptable for collection, or shall be left uncollected if they are larger than the allowable size or unacceptable for collection.
 - (c) Large bulky items such as furniture, large tree limbs and appliances that cannot be reduced to fit approved containers will be collected only by prior special arrangement with the city or the collector.
- 7-222 ACCUMULATION: REFUSE, GARBAGE. No person shall store, collect, maintain or display on private property, refuse or garbage that is offensive or hazardous to the health and safety of the public, or which creates offensive odors or a condition of unsightliness. Storage, collection, maintenance or display of waste or solid wastes in violation of this section shall be considered to be a public nuisance.

No person shall be permitted to accumulate quantities of refuse, papers, trash, ashes, or other waste materials, within or close to any building unless the same is stored in containers in such manner as not to create a health or fire hazard.

- 7-223 BURYING REFUSE, GARBAGE. No person shall bury refuse at any place within the city or keep, place, or deposit refuse on any public or private grounds or premises, whatsoever, except in containers or receptacles for collection upon premises owned, occupied, or under possession and control of such person; PROVIDED, that lawn and garden trimmings may be composted.
- 7-224 BURNING REFUSE, GARBAGE. No person shall burn any garbage, refuse, leather, rubber, plastic, green or wet vegetation or organic material, or burn any other substance producing dense smoke or unpleasant odor within the city.
- 7-225 OWNERSHIP OF REFUSE MATERIALS. Ownership of refuse materials, when placed in the containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the city and shall thereafter be subject to the exclusive control of the city, its employees or collectors and no person shall meddle with refuse containers or in any way pilfer or scatter contents thereof in any alley or street within the city limits.
- 7-226 UNAUTHORIZED DISPOSAL. No person shall haul or cause to be hauled any garbage, refuse or other waste material of any kind, to any dumping place or site or area, within or without the corporate limits of the city, unless such place or site is operated by a collector, the city, or is a sanitary landfill site transfer point or disposal facility approved by the Kansas State Department of Health; in addition the site or facility must comply with all applicable health and zoning ordinances of the city.
- 7-227 HAZARDOUS MATERIALS. No person shall deposit in a garbage or refuse container or otherwise offer for collection any hazardous garbage, refuse or waste. Hazardous materials shall be transported by the owner or his agent, to a safe deposit or disposal as prescribed by the city administrator or his authorized representative. Hazardous materials shall include:
- (a) Explosive materials;
 - (b) Rags or other waste soaked in volatile and inflammable materials;
 - (c) Drugs;
 - (d) Poisons;
 - (e) Radio-active materials, high combustible materials;

- (f) Soiled dressings, clothing, bedding and/or other wastes contaminated by infection or contagious disease;
- (g) Any other materials which may present a special hazard to collection or disposal personnel or equipment or to the public.

7-228 USE OF PUBLIC PROPERTY PROHIBITED. No person shall throw, rake, deposit, dump, drop or spill litter, waste material or foreign material upon the street, sidewalks, or other public right-of-way within the city; PROVIDED, that the mayor may at his discretion proclaim a period when leaves may be placed in street right-of-ways for collection; PROVIDED FURTHER, that nothing in this article shall prevent any person under a permit from the city from encumbering the streets or alleys with building materials or earth as may be necessary for the purpose of construction, erections, adding to, remodeling, repairing any building or structure, or resulting from demolition operations; PROVIDED FURTHER, that in the event of such encumbering of the streets or alleys, the contractor, owner or occupant shall remove any and all materials remaining within (10) days from the completion of the work, and shall leave the street or alley in the same condition that they were in prior to such use thereof.

7-229 ENTER PRIVATE PREMISE. Authorized collectors operating under license of the city are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article.

7-230 PROHIBITED PRACTICES. It shall be unlawful for any person, firm or corporation to:

- (a) Deposit solid waste in any container other than that owned or leased by him or under his control without written consent of such owner and/or with the intent of avoiding payment of the refuse service charge;
- (b) Interfere in any manner with employees of the city or collectors in the collection of solid wastes;
- (c) Burn solid waste unless a permit has been obtained from the city or the appropriate air pollution control agency.

7-231 PENALTY. Any person who shall violate any provision of this article shall upon conviction, be punished by a fine of not less than one hundred dollars (\$100.00) or by imprisonment for not less than thirty (30) days, and each day's failure to comply with any such provision shall constitute a separate violation.

ARTICLE 3. HEALTH, WEED AND MOTOR VEHICLE
NUISANCES

7-301 HEALTH NUISANCES UNLAWFUL; DEFINITIONS. It shall be unlawful for any person to maintain or permit any health nuisance within the city as defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- (b) All dead animals not removed within twenty-four hours (24) hours after death;
- (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
- (d) All stagnant ponds or pools of water;
- (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
- (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
- (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood; or
- (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.

7-302 WEED NUISANCES UNLAWFUL; DEFINITIONS. It shall be unlawful for any owner, occupant or agent or other person having charge or control of any premises to permit weeds to remain upon such premises or any area between the property lines of such premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as

hereinafter defined are declared to be a nuisance and are subject to abatement. For purposes of this article the term weeds means any of the following:

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

7-303 MOTOR VEHICLE NUISANCES UNLAWFUL; FINDINGS OF GOVERNING BODY DEFINITIONS; EXCEPTIONS.

- A. The Governing Body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of the citizens of the city because they:
 - 1. Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
 - 2. Are dangerous to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
 - 3. Are a ready source of fire and explosion;

4. Encourage pilfering and theft;

5. Constitute a blighting influence upon the area in which they are located;

6. Constitute a fire hazard because the frequently block access to fire equipment to adjacent buildings and structures.

B. As used in this article, unless the context clearly indicates otherwise:

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

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

C. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

D. A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:

1. Absence of a current registration plate upon the vehicle;

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

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

E. The provisions of this Section shall not apply to:

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

2. To the parking or storage of an inoperable vehicle for a period of thirty (30) consecutive days or less; provided, however, that such thirty (30) day period shall not be abated by the moving of any such vehicle to another location where its parking or storage would similarly be a violation of this Section.

Provided, however, that nothing herein shall be construed to authorize the maintenance of a public nuisance.

7-304 COMPLAINTS; INQUIRY AND INSPECTION. The designated Public Officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two (2) or more persons stating that a nuisance exists in violation of Sections 7-301, 7-302 or 7-303 and describing the same and where located, or upon being informed that a nuisance may exist by the chief of police or the fire chief. The Public Officer may make such inquiry and inspection when or she observes conditions which appear to constitute such a nuisance condition. Upon making inquiry and inspection, the Public Officer shall make a written report of findings.

7-305 NOTICE OF VIOLATION.

- A. Any person found by the Public Officer to be in violation of Sections 7-301, 7-302, and 7-303 shall be served a notice of such violation.
- B. The notice shall be served upon such person and upon the owner of record of the lot or parcel of ground as to which such conditions exist by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then notice shall be sufficient if mailed to the owner by certified mail, return receipt requested, to the last known address of the owner; and as to any weed notice, such notice shall be published once in the official city newspaper.
- C. The notice shall state the conditions which are in violation of this article, and shall also inform the person:
 1. That such person has ten (10) days from the date of serving the notice to abate the violating conditions or to submit to the city clerk a written request for a hearing before the Standards Hearing Officer as provided by Section 7-306;
 2. That failure within the time allowed to either abate the violating conditions or to request a hearing may result in

prosecution as provided by Section 7-307 and/or abatement of the conditions by the city as provided by Section 7-308; and

3. That, if the notice is as to a weed nuisance violation, no further notice may be given during the calendar year as to any subsequent weed nuisance violations as to the described property prior to the city taking action to abate such nuisance conditions.
- D. Failure to make a timely request for a hearing shall constitute a waiver of any right to contest the findings of the Public Officer.
- E. After a notice as to a weed nuisance violation under Section 7-302 has been given once during a calendar year to the owner, occupant or agent of premises found to be in violation, it shall not be necessary to give any additional notices to such person or party as to any further violations of the weed nuisance provisions occurring upon such property during the same calendar year before action may be taken on behalf of the city to cut or remove such weeds and to abate on behalf of the city the nuisance created thereby, and to then charge and assess the costs thereof; provided, however, that if there is a change in the record owner of title to the property subsequent to the giving of the original notice the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided with an original notice as provided above.

7-306 HEARING. If a timely request for a hearing is given to the city clerk as provided in Section 7-305, the hearing shall be held by the Standards Hearing Officer as soon as possible after the filing of the request, and the person requesting the hearing shall be advised of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, any interested party may be represented by counsel, and any interested party and the city may introduce such witnesses and evidence as deemed necessary and proper for the Standards Hearing Officer. The hearing need not be conducted according to the formal rules of evidence, and the hearing may be continued from time to time as the Standards Hearing Officer deems appropriate. Upon conclusion of the hearing, and if the Standards Hearing Officer finds that any violating conditions are present, the Standards Hearing Officer shall issue written findings and orders specifying the violating conditions found to exist and the amount of time thereafter within which the conditions shall be removed or abated. A copy of the findings and orders shall be served in the same manner as set forth in Section 7-305, except that no publication thereof shall be required.

7-307 FAILURE TO COMPLY; PENALTY. Should any person fail to either comply with the notice to abate the nuisance or request a hearing, or should any person following a requested hearing fail to comply with any abatement

order which then is issued by the Standards Hearing Officer within the time for abatement as prescribed by the Standards Hearing Officer, the city clerk, or the Public Officer may file a complaint in the municipal court of the city against such person. Conviction of any violation of provisions of this article shall be punishable by a fine in an amount not to exceed \$100, or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense,

7-308 ABATEMENT.

- A. In addition to or as an alternative to prosecution as provided in Section 7-307, the Public Officer may seek to remedy violations of this section in the following manner. If a person to whom notice has been sent pursuant to Section 7-305 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Standards Hearing Officer within the time period specified, or if following a requested hearing there is a failure to comply with any abatement order which is then issued by the Standards Hearing Officer within the time for abatement as prescribed by the Standards Hearing Officer, the Public Officer may proceed to abate the conditions causing the violation.
- B. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. 8-1102, and any amendments thereto.

7-309 COSTS ASSESSED AND COLLECTED. If the city abates any nuisance condition pursuant to this article, the cost of abatement and all costs associated with giving notices as prescribed in this article may be assessed against the lot or parcel of ground as to which such nuisance condition existed in the following manner. The city clerk shall give written notice in the same manner as prescribed in Section 7-305 of the costs of such abatement and the costs of giving notices under these proceedings, including a statement that payment of such costs is due and payable within thirty (30) days following receipt or deemed receipt of such notice. If such costs are not paid within such time, the city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this Section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The governing body may also direct the collection of such costs against the owners of such lot or parcel of ground on which such nuisances were located in the manner prescribed in K.S.A. 12-1, 115 and any amendments thereto.

7-310 NOXIOUS WEEDS. Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 12 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

7-311 PUBLIC OFFICER. The person employed in the position of City Administrator by the City of Washington, Kansas, is hereby designated as the Public Officer charged with the administration of Chapter VII, Article Three of the Code of the City of Washington, Kansas, 1985.

7-312 STANDARDS HEARING OFFICER. The Standards Hearing Officer shall be appointed by the Mayor and approved by the Council of the City of Washington, Kansas, and any other person appointed as Standards Hearing Officer shall continue in such capacity until such time as another person is appointed Standards Hearing Officer by the Mayor and approved by the Council.

ARTICLE 4. MINIMUM STANDARD HOUSING AND PREMISE CODE

7-401 TITLE. This article shall be known as “Minimum Standard Housing and Premises Code,” and will be referred to herein as “this code” or “this article.”

7-402 GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this article.

7-403 DECLARATIONS OF POLICY. The city council declares the purpose of this article is to protect, preserve and promote the physical and mental health of the people, and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation provides for:

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

7-404 DEFINITIONS. The following definitions shall apply to the enforcement of this article:

- (a) “Basement” shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground;
- (b) “Cellar” shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground;
- (c) “Dwelling” shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; PROVIDED, that temporary housing hereinafter defined shall not be regarded as a dwelling;
- (d) “Dwelling unit” shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating;
- (e) “Habitable dwelling” shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons;
- (f) “Habitable room” shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places or other similar places, not used by persons for extended periods;
- (g) “Infestation” shall mean the presence, within or around a dwelling, of insects, rodents, or other pests;
- (h) “Multiple dwelling” shall mean any dwelling containing more than two (2) dwelling units;
- (i) “Occupant” shall mean any person, over one (1) year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit;
- (j) “Operator” shall mean any person who has charge, care, owns, or has control of a premises or of a building or structure or part thereof in which dwelling units or rooming units are let;

- (k) “Owner” shall mean any person, firm or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the titleholder, and such person shall be deemed and taken to be the owner or owners of such property within the true intent and meaning of this article and shall be bound to comply with the provisions to the same extent as the record owner and notice to any such person shall be deemed and taken to be good and sufficient notice as if such person or persons were actually the record owner or owners of such property;
- (l) “Person” shall mean and include any individual, firm, corporation, association or partnership;
- (m) “Plumbing” shall mean and include all of the following supplied facilities and equipment:
1. Gas or fuel pipes;
 2. Gas or fuel burning equipment;
 3. Water pipes;
 4. Garbage disposal units;
 5. Waste pipes;
 6. Water closets;
 7. Sinks;
 8. Installed dishwashers;
 9. Lavatories;
 10. Bathtubs;
 11. Shower baths;
 12. Installed clothes washing machines;
 13. Catch basins;
 14. Drains;
 15. Vents and any other similar supplied fixtures, together with connections to water, sewer, gas or fuel lines;
- (n) “Premise” shall mean any lot or land area, either residential, not covered by a structure, and which is within the limits of the city;
- (o) “Public officer” shall be the city building inspector;
- (p) “Rooming house” shall mean any dwelling, or that part of a dwelling, containing one or more rooming units, in which space is let by the owner or

operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father, or sister and brother of the owner or operator;

- (q) “Rooming unit” shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes;
- (r) “Refuse” for the purpose of this article refuse shall include garbage and trash:
 - 1. “Garbage” shall mean an accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetables.
 - 2. “Trash (combustible)” for the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any combustible materials.
 - 3. “Trash (noncombustible)” for the purpose of this article noncombustible trash shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other noncombustible material.
- (s) “Structure” shall mean any thing constructed on the ground or attached to something having a location on the ground;
- (t) “Supplied” shall mean paid for, furnished, or provided by or under the control of the owner or operator;
- (u) “Temporary” housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, house or building or another structure or to any utilities system on the same premises for more than thirty (30) consecutive days, except when located in a mobile home court duly licensed under ordinances of the city;
- (v) “Words – Meanings” whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” “premises,” are used in this article, they shall be construed as though they were followed by the words “or any part thereof.”

7-405 DUTY OF OCCUPANT, OWNER OF OCCUPIED, UNOCCUPIED BUILDING, PREMISES. Provisions relating to the duty of occupants or owners of occupied or unoccupied buildings and premises or vacant premises shall be as follows:

- (a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free of any accumulation of filth, rubbish, garbage or any similar matter as covered by Sections 7-608 and 7-609 of this article;
- (b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he occupies and of which he has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant, then the owner is responsible for violations of this article applicable to the premise;
- (c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash;
- (d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the unit primarily infested;
- (e) Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in vermin-proof or reasonably insect-proof conditions, extermination shall be the responsibility of the owner or operator;
- (f) Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

7-406 REGULATIONS; USE, OCCUPANCY OF DWELLINGS. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

- (a) Basement or Cellar. The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.
- (b) Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with subsection “q” of this section governing ventilation; PROVIDED, that if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his opinion, the window area is not detrimental to the occupants.
- (c) Bathing Facilities. Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.
- (d) Boarding and Rooming Houses. No room shall be used for sleeping purposes unless the ceiling height is at least seven feet (7’) and there are at least four hundred cubic feet (400 cu. ft.) of air space for each occupant over six (6) years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet (7’) over at least fifty percent (50%) of the floor area:
 - 1. Bathing facilities shall be provided in the form of a tub or shower for each eight (8) occupants. Separate facilities shall be provided for each sex and plainly marked.
 - 2. A flush water closet shall be provided for each six (6) occupants and shall be separated with the separate access for bathing facilities if more than four (4) occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.
- (e) Drainage. All courts, yards, or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of water thereon. Properly constructed wading and swimming pools and fishponds are excepted from this section.
- (f) Entrances.
 - 1. There shall be for each dwelling unit separate access either to a hallway, stairway, or street, which is safe and in good repair.

2. A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard for egress.
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- (g) Floor Area. Every dwelling unit shall contain at least one hundred fifty square feet (150 sq. ft.) of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than six feet (6') above the floor.
 - (h) Garbage and Trash Receptacles. Every dwelling and every dwelling unit shall be provided with refuse containers as provided in Section 7-205 of this Code.
 - (i) Heating. Every dwelling and every dwelling unit shall be so constructed, insulated and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of seventy (70) degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order, and the owner of the approved heating equipment shall maintain it in good order.
 - (j) Kitchen Sink. In every dwelling unit containing two (2) or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the city health officials.
 - (k) Lavatory Facilities. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.
 - (l) Lighting. Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor, or at least two (2) wall or floor outlets.
 - (m) Lighting of Toilets and Bathrooms. Every toilet and every bathroom in every dwelling shall have at least one (1) electric light in either the ceiling or on the wall.
 - (n) Plumbing. All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

- (o) Privies. All pit privies, privy vaults, “dry hopper” sewer-connected privies and frost proof closets are hereby declared to be public nuisances.
- (p) Toilet Facilities. There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room which affords privacy.
- (q) Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window or windows open-able directly to the outside air and the total area of such window or windows shall be not less than five percent (5%) of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of open-able windows.
- (r) Water Heating Facilities. Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.
- (s) Windows and Doors. Every window and exterior door shall be reasonably weather-tight, lockable and rodent-proof and shall be kept in good working condition and in good repair.

7-407 MAINTENANCE, REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. All rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls and ceilings shall be kept in good repair and useable condition.

7-408 UNFIT DWELLINGS. Dwellings or dwelling units shall be declared as unfit for human use or habitation and placarded as unfit for human use or habitation whenever conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structures, the occupants of neighboring structures or other residents of the neighborhood or which shall have a blighting influence on properties in the area.

(a) Such conditions may include the following with out limitation:

1. Defects therein increasing the hazards of fire, accident or other calamities.
2. Lack of:
 - a. Adequate ventilation,

- b. Light,
 - c. Cleanliness,
 - d. Sanitary facilities.
3. Dilapidation.
 4. Disrepair.
 5. Structural defects.
 6. Overcrowding.
 7. Inadequate ingress and egress.
 8. Unsightly appearance that constitutes a blight to the adjoining property, the neighborhood or the city.
- (b) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public officer shall be vacated within a reasonable time as so ordered;
- (c) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the public officer.
1. The public officer shall remove such placard whenever the effect or defects upon which the condemnation and placarding action were based have been eliminated.
 2. It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a misdemeanor within the meaning of this code.
 3. It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the public officer as herein provided, and any violation of this provision shall constitute a misdemeanor within the meaning of this code.
- 7-409 DESIGNATION; BLIGHTED PREMISES. Any premise may be declared unsightly and blighted whenever it is found that the property is not commensurate with the character of other properties in the neighborhood or that it otherwise constitutes a blight to the adjoining property, the neighborhood or the city for such reasons as, but not limited to:
- (a) Dead trees or other unsightly natural growth.

- (b) Unsightly stored or parked material, equipment, supplies, machinery, trucks, or automobiles or parts thereof; vermin infestation, inadequate drainage.
- (c) Or other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

7-410 INSPECTION; BUILDINGS, STRUCTURES, PREMISES. Provisions relating to the inspection of buildings, structures and premises shall be as follows:

- (a) For the purpose of determining compliance with the provisions of this code, the public officer or his authorized representative is hereby authorized to make inspections to determine the condition, use and occupancy of dwellings, dwelling units, rooming units and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings;
- (b) The public officer is not limited by the conditions in the above subsection (a) where new construction or vacant premises are involved and may make such inspection at any appropriate time;
- (c) The owner, operator, and occupant of every dwelling, dwelling unit and room unit shall give the public officer, or his authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials;
- (d) Every occupant of a dwelling shall give the owner thereof, or his authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated or any order issued pursuant to the provisions of this article.

7-411 NOTICE OF VIOLATIONS, PROCEDURES. Rules and regulations pertaining to notices of violations and procedures in serving notices shall be as follows:

- (a) Whenever a petition is filed with the public officer or by at least five (5) residents of the municipality in writing charging any violation under this article, or whenever it appears to the public officer (on his own motion) that any structure or premises is unfit for human use or habitation, or that there is any violation of this code or these standards, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties interested in such

structure or premises (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner, mortgagee and parties in interest shall be given the right to file and answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

1. After such notice, if it is determined that the structure or premises under consideration is unfit for human use or habitation, or that there is any violation of this article or of the standards set out in this code, the public officer shall state in writing of his finding of facts in support of such determination and shall issue and cause to be served upon the owner thereof an order which provides for the removal, alteration or improvement of the cause of the violation of this code; PROVIDED, that if the violation consists of a deficiency of any kind in regard to the standards set out in this code as regards a building or structure, then and there shall be served upon the owner thereof an order which,
 - a) If the repair, alteration or improvement of the structure can be made at reasonable cost in relation to the value of the structure which cost in no case shall exceed sixty percent (60%) of the reasonable value of the structure, requires the owner, within the time specified in the order, to repair, alter or improve such structure to render it fit for human use or habitation or to vacate and close the structure until conformance with this code; or
 - b) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure based on the limits as set out in (a) above, require the owner, within the time specified in the order, to remove or demolish such structure.
2. If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished.
3. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure or premises, or to comply with any other reasonable order made hereunder, the public officer may cause

such structure or premises to be repaired, altered or improved, or to be vacated and closed.

4. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and such lien, including as part thereof allowance of his costs and the necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county against the lots or parcel of land. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto as determined by proper judicial proceedings, including his necessary attorney's fees incurred herein, as determined by the court.
5. Complaints or orders issued by the public officer pursuant to this code shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer, said public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in the official newspaper of Washington County. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall be filed with the clerk of the district court of the county in which the structure is located and such filing of the complaint shall have the same force and effect as other lis pendens notices provided by law.
6. Any person affected by an order issued by the public officer may petition the review board, as provided in Section 7-617 of this Code. No action for an injunction restraining the public officer shall be taken to enforce any order of the public officer pending the final disposition of the cause; PROVIDED, that within thirty (30) days after the posting and service of the order of the public officer, such person shall petition the district court. Hearing shall be had by the court on such petition as soon thereafter as possible.

7-412 PUBLIC OFFICER, AUTHORITY. The public officer referred to heretofore is hereby authorized to enforce provisions of this code and all other ordinances which regulate or set standards affecting buildings and premises.

7-413 DISCRETIONARY AUTHORITY. Discretionary authority may be exercised in specific cases where variance from the terms of the code:

- (a) Will not adversely affect the public health, safety or welfare of inhabitants of the city;
- (b) Is in harmony with the spirit of this code;
- (c) Where literal enforcement of the code will result in unnecessary hardship.

7-414 REVIEW BOARD. The city council shall be the review board. A majority of the board shall constitute a quorum for the transaction of business. The board shall cause a proper record to be kept by the city clerk of its proceedings.

7-415 REVIEW BOARD, AUTHORITY. The review board is authorized to review all alleged violations of this code, and to hear appeals when any person feels aggrieved by any order, requirement, decision or determination by the public officer in enforcement of this article.

7-416 REVIEW BOARD, APPEALS. Any person, firm or corporation considering himself aggrieved by any decision of the public officer is hereby authorized and empowered to appeal to the review board in writing, within ten (10) days from the time of the decision, notice of which appeal shall be filed with the office of the city clerk. Upon receipt of such notice to appear, the city clerk shall notify in writing the mayor of the city. The board shall, within thirty (30) days of receipt of such notice determine a date for the hearing. Notice of the date of the hearing shall be sent to the appellant at least ten (10) days before the hearing. Every decision of the board of appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity.

7-417 CONFLICT OF ORDINANCES: EFFECT OF PARTIAL INVALIDITY. Whenever a conflict arises between the provisions of this article with any provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provisions shall prevail which establish a higher standard. If there are conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this code which established a lower standard, then the provisions of this article shall be deemed to prevail and such other ordinances or code are hereby declared to be repealed to the extent that they may be found in conflict with this article.

7-418 VALIDITY. If any section, subsection, paragraph, sentence, clause, or phrase of this article should be declared invalid for any reason whatsoever,

such decision shall not affect the remaining portions of this article, which shall remain in full force and effect; and to this end the provisions of this article are hereby declared to be severable.

7-419 PENALTY. Any person who shall violate any of the provisions of this article, or who shall violate or fail to comply with any order made thereunder, or any certificate or permit issued thereunder, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) or by imprisonment for not less than five (5) days nor more than thirty (30) days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.