



City of
VALLEY FALLS

Incorporated May 17, 1869

Work Session Agenda

January 11, 2023 6:30 PM

CALL TO ORDER

DISCUSSION ITEMS:

- A. Business Code Regulations
- B. HAT (Housing Assessment Tool)
- C. Council Ideas/ Feedback/ Updates

NEXT WORK SESSION:

- A. Topics For Discussion
 1. ARPA
 2. Pocket Park
 3. Tucking Lot
 4. River Improvements
- B. Date
February 8th 6:30 PM to 8 PM- Leadership Retreat

ADJOURNMENT

Future Topics:

- Wayfinding Signage
- CDBG Sewer Phase 2
- CDBG Housing Rehab
- Moderate Income Housing Grant
- Community BBQ
- Barnes Addition
- Dog Park
- Capital Improvement/ Strategic Plan
- Pond Dam Repair/ landscaping
- Police Dept Building
- Street Project - Engineered Fill Experiment
- Swimming Pool Park
- Swimming Pool Pump House
- Street Signs- Paint/ Replace
- Street Signs - Crooked
- Stop Sign Placement/ Stop Lines
- Park - Tree Replacement
- Park - Landscaping
- Park - Stain Gazebo
- Park - Camp site/ new park additions
- Internet update to fiber w/ Giant
- Downtown Streetscape
- Street CIP
- Vehicle CIP
- Industrial Park
- Disk Golf

Overview of 410 Walnut Zoning and Code Issue

Below are the sections of the zoning ordinance that pertain to Scott's Heinen's Repair shop located at 410 Walnut. His shop is located in CP-4 Central Business District.

It is zoned CP-4. The CP-4 regulations says to refer to Article 10 CP-2 zoning for allowed uses. This does allow a motor vehicle repair shop. It does not allow for a vehicle graveyard/ salvage yard.

Definitions - motor vehicle graveyard, salvage yard... Which are not permitted in the zoning CP-4 without a condition use permit at listed in Article 22.

Corner visibility may also be a concern as listed in Article 21, pg 91.

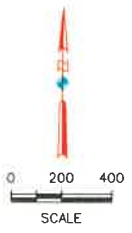
In Article 16, 16-102, 1 states that nothing shall be allowed to be place in any public right-of-way without permission from the City.

If he is selling the junk like he stated then in Article 16, 16-106, 4 says that merchandise shall be kept off the public sidewalks and streets.

Aside from the Zoning Ordinance violations, he is also in violation of Chapter 8, Health & Welfare of the City Code.

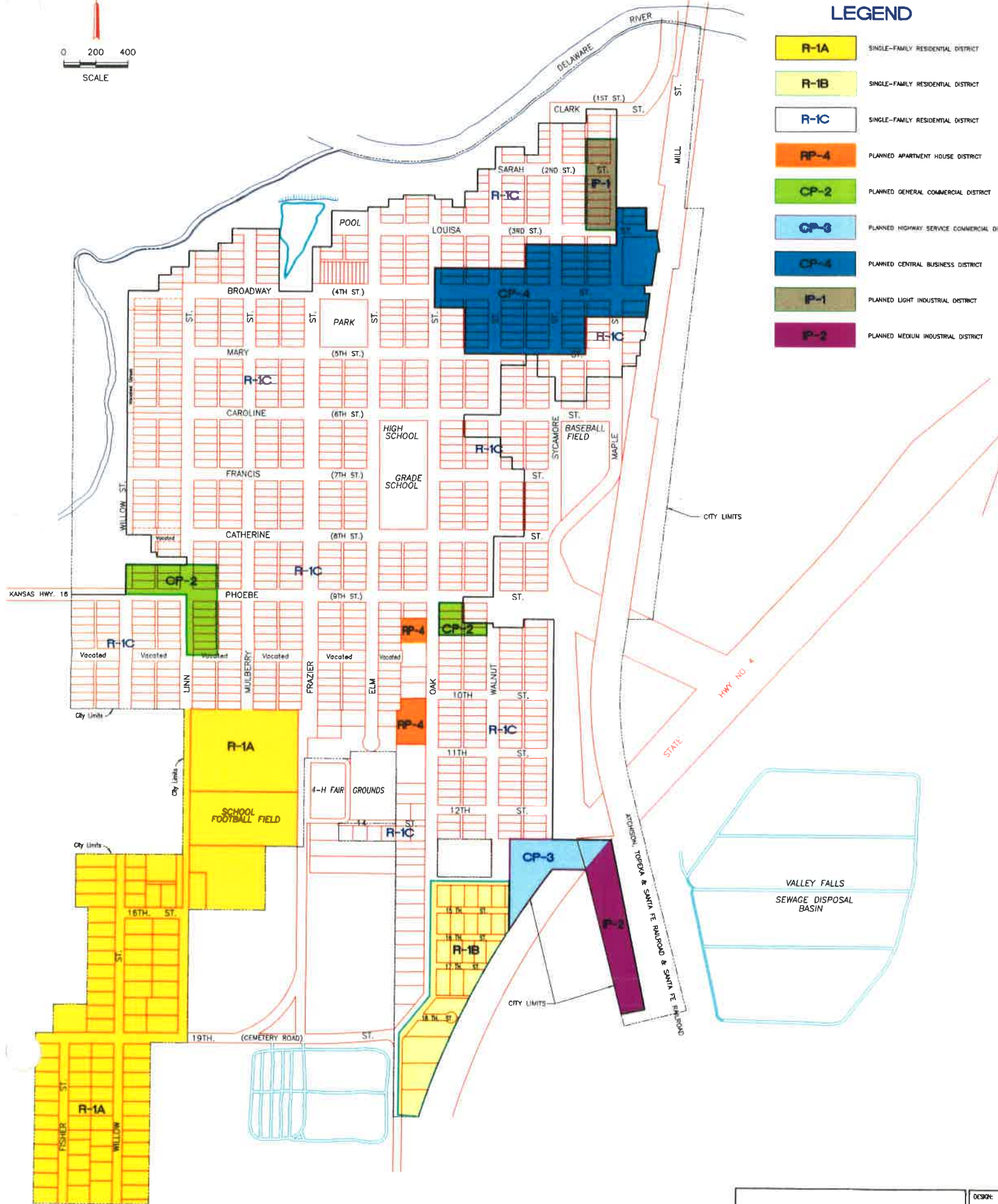
He is also in violation of the Kansas Junkyard and Salvage Control Act, KSA 68-2201 et seq. <https://www.ksdot.org/burRow/Salvage/default.asp>

Multiple complaints have been received from surrounding neighbors and other residents of the city. The area has become a hazard for traffic and access of emergency vehicles. In addition, the junk vehicles on the street are collecting trash and debris around them.



LEGEND

- R-1A** SINGLE-FAMILY RESIDENTIAL DISTRICT
- R-1B** SINGLE-FAMILY RESIDENTIAL DISTRICT
- R-1C** SINGLE-FAMILY RESIDENTIAL DISTRICT
- FP-4** PLANNED APARTMENT HOUSE DISTRICT
- CP-2** PLANNED GENERAL COMMERCIAL DISTRICT
- CP-3** PLANNED HIGHWAY SERVICE COMMERCIAL DISTRICT
- CP-4** PLANNED CENTRAL BUSINESS DISTRICT
- P-1** PLANNED LIGHT INDUSTRIAL DISTRICT
- P-2** PLANNED MEDIUM INDUSTRIAL DISTRICT



ARTICLE 12
"CP-4" PLANNED CENTRAL BUSINESS DISTRICT REGULATIONS

Sections:

- 12-101 Application
- 12-102 Use Regulations
- 12-103 Plan Approval Guidelines
- 12-104 Performance Standards
- 12-105 Parking Regulations
- 12-106 Off-Street Loading Regulations
- 12-107 Sign Regulations
- 12-108 Height, Area and Bulk Regulations
- 12-109 Supplementary Height, Area and Bulk Regulations
- 12-110 Supplementary Use Regulations

12-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-4" Planned Central Business District. This District encompasses the shopping and office core of the central business district of Valley Falls. Appropriate uses are the same as for the "CP-2" General Commercial District, but with altered off-street parking and off-street loading requirements in recognition of the practical difficulty of providing off-street parking and loading spaces in the core district, and in recognition of the collective responsibility to provide other parking and loading for the district.

12-102 Use Regulations: In District "CP-4," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-2" Planned General Commercial District.
2. Residential uses. *01172*

12-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 15 of these Regulations.

12-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 16 of these Regulations.

12-105 Parking Regulations: None required.

12-106 Off-Street Loading Regulations: None required.

12-107 Sign Regulations: The Sign Regulations are contained in Article 19 of these Regulations.

12-108 Height, Area and Bulk Regulations: In the "CP-4" Planned Central Business District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. Height: None.
2. Front Yard: None.
3. Side Yard: None.
4. Rear Yard: None.
5. Lot Dimensions: None.
6. Lot Area: None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 20. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

12-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 21 of these Regulations.

12-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 22 of these Regulations.

ARTICLE 10
"CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS

Sections:

- 10-101 Application
- 10-102 Use Regulations
- 10-103 Plan Approval Guidelines
- 10-104 Performance Standards
- 10-105 Parking Regulations
- 10-106 Off-Street Loading Regulations
- 10-107 Sign Regulations
- 10-108 Height, Area and Bulk Regulations
- 10-109 Supplementary Height, Area and Bulk Regulations
- 10-110 Supplementary Use Regulations

10-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-2" Planned General Commercial District. The purpose of this District is to provide sufficient space in appropriate locations within the incorporated cities for certain commercial and service activities while at the same time affording protection of surrounding properties from heavier types of commercial activity.

10-102 Use Regulations: In District "CP-2," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-1" Planned Neighborhood Commercial District.
2. Auditorium or theatre, but no open-air drive-in theatres.
3. Bowling alleys and amusement arcades.
4. Drive-in and drive-through establishments, except as otherwise prohibited herein.
5. Food storage lockers.
6. Hotels, motels, and motor hotels.
7. Lawn and garden supply sales and service, including storage yards.
8. Membership clubs, including private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments.
9. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.
10. Reupholstering.

11. Warehousing, not exceeding 20,000 square feet in any single building.
12. All other commercial or retail stores and activities not otherwise prohibited or restricted by these Regulations, including but not limited to, the following:

- Antique shop
- Appliance store and/or repair shops
- Art school, gallery or museum
- Auto supply store
- Building materials sales
- Car wash
- Catering establishment
- Clothing and apparel store
- Curio or gift shop
- Department store
- Drinking establishment
- Dry goods store
- Dyeing and cleaning works
- Furniture store
- General service and repair establishment
- Grocery store or supermarket
- Hardware store
- Lumber yard
- Meat market, including processing facilities
- Motor vehicle sales, service and/or repair
- Painting and/or decorating shop
- Parking lots operated as a business
- Plumbing and heating shop
- Radio and television sales and/or service
- Restaurant
- Sewing machines sales, service and/or instruction
- Sporting goods sales
- Taverns
- Tire sales and service including vulcanizing, but not manufacture
- Toy store
- Used car sales
- Variety store

10-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 15 of these Regulations.

10-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 16 of these Regulations.

10-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 17 of these Regulations.

10-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 18 of these Regulations.

10-107 Sign Regulations: The Sign Regulations are contained in Article 19 of these Regulations.

10-108 Height, Area and Bulk Regulations: In the "CP-2" Planned General Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. Height: Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
2. Front Yard: The depth of the front yard shall be at least 30 feet.
3. Side Yard: There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. Rear Yard: The depth of the rear yard shall be at least 20 feet.
5. Lot Dimensions: The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. Lot Area: Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 20. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

10-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 21 of these Regulations.

10-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 22 of these Regulations.

ARTICLE 1
TITLE; PURPOSE; DEFINITIONS;
DISTRICT AND GENERAL REGULATIONS

Sections:

- 1-101 Title
- 1-102 Purpose
- 1-103 Jurisdiction
- 1-104 Definitions
- 1-105 Districts
- 1-106 General Regulations Governing All Zoning Districts
- 1-107 Vesting of Development Rights

1-101 Title: This ordinance, including the Zoning District maps and overlays made a part hereof, shall be known and may be cited as the "Zoning Ordinance of Valley Falls, Kansas", and shall hereinafter be referred to as "this Ordinance."

1-102 Purpose: This ordinance is intended to serve the following purposes:

- A. To promote the health, safety, morals, comfort and general welfare of all the citizens of Valley Falls, Kansas.
- B. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone.
- C. To regulate and restrict the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; size of yards, courts, and other open spaces.
- D. To provide for adequate light and air, and acceptable noise levels.
- E. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
- F. To provide adequate notice on subsequent changes to this Ordinance and an opportunity for interested parties to be heard.
- G. To provide information regarding possible flood hazards.
- H. To facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the Comprehensive Plan for Valley Falls, Kansas.
- I. To promote the achievement of the Future Land Use Plan for Valley Falls, Kansas.
- J. To inform the public regarding future development in Valley Falls, Kansas, thereby providing a basis for wise decisions with respect to such development.

1-103 Jurisdiction: Except as otherwise provided herein, this Ordinance shall apply to all of the land within the corporate limits of the City of Valley Falls, Kansas.

1-104 Definitions: For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word "building" shall include the word "structure"; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities; the word "shall" is mandatory and not directory while the word "may" is permissive; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABANDONED VEHICLE**: Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.
2. **ABUTTING**: Adjoining or bordering.
3. **ACCESS**: The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
4. **ACCESSORY BUILDING**: A subordinate building or portion of the main building, located on the same lot, the use of which is clearly incidental to that of the main building or to the use of the land on which it is located. Customary accessory buildings include, but are not limited to, garages, carports, garden houses, small storage sheds and children's playhouses.
5. **ACCESSORY USE**: A subordinate use which serves an incidental function to that of the principal use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, air conditioners, barbecue grills, fireplaces, and satellite dish antennas.
6. **ADMINISTRATIVE OFFICER**: See Zoning Administrator.
7. **AIRCRAFT**: A weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot-air balloons, and the like.
8. **AIRPORT OR AIRCRAFT LANDING FIELD**: Any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tiedown areas, hangars, and other necessary buildings and open spaces.

9. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
10. **ALTERATION:** A change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered as an alteration.
11. **AMENDMENT:** The process of change or alteration to the Zoning Ordinance in one of the following forms:
 - a. A comprehensive revision or modification of the zoning text and/or maps.
 - b. A text change in the zone requirements.
 - c. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
 - d. The approval of a Conditional Use Permit as provided within this Ordinance.
12. **ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted principally for examination, treatment, board or care by a Doctor of Veterinary Medicine. This does not include open kennels or runs.
13. **APARTMENT:** A room or a suite of rooms within an apartment house or complex arranged, intended or designed for a place of residence of a family.
14. **APARTMENT HOUSE:** A building or buildings containing apartments used as a place of residence for more than two (2) families.
15. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
16. **AUCTION SALES YARD:** A tract of land and accompanying buildings and/or other structures, if any, arranged or designed to be used for the sale by auction of merchandise offered on consignment.
17. **AUTOMOTIVE AND MACHINERY REPAIR SHOPS:** A building used for the repair of motor vehicles or machinery. This shall include, but not be limited to, body and paint shops, glass service shops and auto service centers.
18. **AUTOMOTIVE SALES AREA:** An open area, other than a street, used for display or sale of new or used motor vehicles, and where no repair work is done except minor incidental repair of motor vehicles to be displayed and sold on the premises.

19. **AUTOMOTIVE SERVICE STATION:** Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such as motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.
20. **BASEMENT:** A space wholly or partly underground and having more than one-half of its total usable space below building grade. Underground homes constructed with berms on top and on three sides, as well as walkout construction shall not be considered as basements.
21. **BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to this Ordinance.
22. **BOARDING OR ROOMING HOUSE:** A dwelling in which roomers, lodgers and/or boarders are housed but individual cooking facilities are not provided.
23. **BUFFER AREA:** Open and unobstructed ground area of a plot in addition to any required yards or road widenings around the perimeter of any plot.
24. **BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
25. **BUILDING:** Any site-built structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
26. **BUILDING, COMMUNITY:** A building used for noncommercial social, educational, or recreational activities of a neighborhood or community.
27. **BUILDING, COMPLETELY ENCLOSED:** Any building having no outside openings other than ordinary doors, windows and ventilators.
28. **BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.
29. **BUILDING LINE:** A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of this Ordinance. The building line is equivalent to the setback or yard line.
30. **BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the plot on which said building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the plot on which it is located.
31. **BUILDING, PUBLIC:** A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.

32. **BULKY WASTE:** Discarded or stored inoperative household appliances, disused furniture, disused equipment, junk lumber and other building debris, parts of machinery and equipment, and similar waste not ordinarily collected with compactor equipment; provided that bulky waste shall not mean abandoned or inoperable vehicles in whole or in part.
33. **CAMP:** Any plot, including its area of land and/or water, on which are located cabins, shelters, houseboats or other accommodations of the design or character suitable for seasonal or other more or less temporary living purposes; but not including a day camp, trailer camp, rooming house, tourist home, hotel, summer colony, hospital, place of detention, school of general instruction, or nursery school.
34. **CANOPY:** Any structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
35. **CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
36. **CEMETERY:** Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.
37. **CHILD CARE CENTER:** A facility licensed by the State of Kansas to provide for the care of thirteen (13) or more children from two (2) weeks to sixteen (16) years of age, and which is maintained for less than twenty-four (24) hours per day.
38. **CHURCH:** An establishment, the principal purpose of which is religious worship, but which may include such accessory uses in the main structure or in separate buildings, as Sunday School rooms, assembly rooms, kitchen, recreational facilities and/or library.
39. **CIRCUS AND/OR CARNIVAL:** A temporary outdoor amusement center, bazaar or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food services, sales, or small scale games.
40. **CITY:** The governing body of the City of Valley Falls, Kansas, or the delegated staff, boards or agencies thereof. City also means the lands within the corporate limits of the City of Valley Falls, Kansas.
41. **CITY ENGINEER:** The City Engineer, or such person designated by the Governing Body to provide engineering assistance in administering the provisions of this Ordinance governing areas of normal responsibilities assigned to the City Engineer.

42. **CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.
43. **CLUB:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.
44. **CLUB, MEMBERSHIP:** Membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.
45. **CLUSTER HOUSING:** The site planning technique of grouping dwelling units around courts, parking areas, common open spaces and private drives as opposed to fronting all on a public street.
46. **COMMON OPEN SPACE:** An area of land, water or combination thereof, planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
47. **COMPREHENSIVE PLAN:** The adopted Comprehensive Plan for the City of Valley Falls, Kansas, and amendments thereto.
48. **CONDITIONAL USE:** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in this Ordinance and may have special conditions and safeguards attached to assure that the public interest is served.
49. **CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
50. **CONDOMINIUM:** A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 et seq) of the State of Kansas.
51. **CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
52. **CONSTRUCTION/DEMOLITION WASTE:** Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, pavements, curbing, bridges, and trees and brush; but not asbestos, toxic and/or other designated hazardous materials.

53. **COUNTY:** The Board of County Commissioners of Jefferson County, Kansas, or its delegated staff, boards or agencies.
54. **COUNTY HEALTH OFFICER:** The Director of the County Health Department, or such person designated to administer the Health Regulations of Jefferson County.
55. **COURT:** An unobstructed open area bounded on three or more sides by the walls of a building or buildings; an **OUTER COURT** extends to a street or yard, and an **INNER COURT** does not.
56. **DAY CARE HOME:** A facility licensed by the State of Kansas to provide for the care of not more than ten (10) children under fourteen (14) years of ages, not more than six (6) of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names.
57. **DENSITY:** The average number of dwelling units per acre of land, expressed in terms of "per acre." (Example: 300 dwelling units occupying 40 acres of land is 7.5 units per acre.)
58. **DETENTION CENTER:** A secure residential facility licensed by the State of Kansas, designed specifically for children who require secure custody and which provides temporary living accommodations for alleged delinquent, miscreant, wayward, truant or deprived children pending court disposition or placement in an appropriate program.
59. **DISTANCE:** Horizontal distances unless otherwise designated.
60. **DISTRICT:** A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.
61. **DOG:** Any canine specie over six (6) months of age.
62. **DRINKING ESTABLISHMENT:** A premises, which may be open to the general public, where alcoholic liquor by the individual drink is served.
63. **DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons automobile and from which occupants of the automobile may make purchases, transact business or view motion pictures or other entertainment.
64. **DRIVE-THROUGH ESTABLISHMENT:** Any restaurant, financial institution, or product vending enterprise where the patron does not necessarily enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building or where facilities are provided for eating outside a building are included in this definition.
65. **DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.

66. **DWELLING, MULTI-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by three or more families.
67. **DWELLING, SEASONAL:** A residence intended for occasional, but not permanent, occupancy.
68. **DWELLING, SINGLE-FAMILY:** A building having accommodations for and occupied exclusively by one family. A residential-design manufactured home shall be considered a single-family dwelling.
69. **DWELLING, TWO-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by two families.
70. **DWELLING UNIT:** A building, or part thereof, containing complete housekeeping facilities for one family.
71. **EASEMENT:** A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
72. **EFFICIENCY UNIT:** A dwelling unit, constructed as a part of a residential complex, having a living room of at least 220 square feet; an additional 100 square feet of living area for each occupant of such unit in excess of two (2); a separate closet; a separate bathroom containing a water closet, lavatory and bathtub or shower; and, a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front.
73. **ESTABLISHED SETBACK:** The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.
74. **EXOTIC BIRDS OR ANIMALS:** Birds or animals not commonly kept domestically or that are not native to Jefferson County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and buffalo shall not be considered as exotic birds or animals.
75. **FAMILY:** One (1) or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.
76. **FAMILY DAY CARE HOME:** A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.

77. **FARMERS MARKET:** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale.
78. **FEED LOT, COMMERCIAL:** A livestock feedlot or feedyard as defined by K.S.A. 47-1501 et seq, licensed by and operated under standards set forth by the Kansas Livestock Commission.
79. **FENCE:** An unroofed barrier or unroofed enclosing structure, including retaining walls.
80. **FLOOD PLAIN:** That area of land subject to inundation of water as a result of what is commonly known as the 100-year flood.
81. **FLOOR AREA:** The square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.
82. **FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).
83. **FRONT:** The part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.
84. **FRONTAGE:**
- a. **Street Frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
 - b. **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.
85. **GARAGE, PRIVATE:** An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.
86. **GARAGE, PUBLIC:** A building, or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor vehicles.
87. **GARAGE, STORAGE:** A building, or portion thereof, designed or used exclusively for housing motor vehicles, other than trucks and commercial vehicles, pursuant to previous contract or arrangement.
88. **GARDEN APARTMENT BUILDING:** An apartment building located on a lot either singly or together with other similar apartment buildings, such buildings generally being one or two stories in height and having grounds completely landscaped.

89. **GOVERNING BODY:** The City Council of the City of Valley Falls, Kansas.
90. **GRADE, ESTABLISHED:** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.
91. **GREENHOUSE:** A translucent enclosure used for the cultivation or protection of tender plants.
92. **GROUP HOME:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas. For purposes of this definition, disability shall mean:
- a. **DISABILITY:** A condition, with respect to a person, which means:
1. A physical or mental impairment which substantially limits one or more of such persons major life activities;
 2. A record of having such an impairment; or,
 3. Being regarded as having such an impairment.
- Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).
93. **GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of seven (7) to twelve (12) children under fourteen (14) years of age, and which is maintained for less than twenty-four (24) hours per day.
94. **GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.
95. **HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 65-3430 and amendments thereto.
96. **HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.
97. **HIGHWAY:** A street designated as a highway by an appropriate local, state or federal agency.

98. **HIGHWAY, LIMITED ACCESS:** A freeway or expressway providing for through traffic in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.
99. **HOME OCCUPATION:** An occupation or business activity which is clearly incidental and secondary to the use of the premises for dwelling.
100. **HOSPITAL:** A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.
101. **HOTEL:** A building, or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or otherwise.
102. **INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.
103. **INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designated and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or governmental organizations.
104. **INDUSTRIAL SOLID WASTE:** Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.
105. **INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.
106. **JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
107. **JUNKYARD:** An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.

108. **KENNEL, BOARDING:** Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.
109. **KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four dogs are kept for any purposes.
110. **KINDERGARTEN:** A facility licensed by the State of Kansas to provide educational programs for children during the school year immediately preceding their entrance into First Grade, and connected with a public, private or parochial elementary school system.
111. **LABORATORY, MEDICAL:** An establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.
112. **LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
113. **LAUNDRY:** An establishment where commercial laundry and dry cleaning work is undertaken.
114. **LAUNDRY, SELF-SERVICE:** An establishment equipped with individual coin-operated washing, drying and/or dry cleaning machines.
115. **LIVESTOCK SALES YARD:** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.
116. **LOADING SPACE OR LOADING BERTH:** A space within the main building or on the same lot as the main building providing for the standing, loading, or unloading of motor vehicles.
117. **LOT:** A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building or unit group of buildings together with permitted accessory buildings and required yard areas and parking spaces, having its principal frontage upon a public street. A lot may include one (1) or more platted lots or metes and bounds described tracts, but must be under single ownership and, when more than one (1) parcel, be contiguous.
118. **LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any road right-of-way or road easements.
119. **LOT, CORNER:** A lot abutting upon two or more streets at their intersection.
120. **LOT COVERAGE:** The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves.

121. **LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
122. **LOT, DOUBLE FRONTAGE:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
123. **LOT INTERIOR:** A lot whose side line or lines do not abut upon any street.
124. **LOT LINES:** The lines bounding a lot as defined herein.
125. **LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds, or a parcel of land, the deed of which was recorded prior to the adoption of this Ordinance.
126. **LOT, WIDTH OF:** The distance, measured on a horizontal plane, between the side lot lines, measured at right angles to the lot depth at the established front building line.
127. **LOT, ZONING:** A parcel or tract of land used, developed, or built as a unit under single ownership or control. Said zoning lot may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
128. **MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.
129. **MANUFACTURED HOME:** A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development.
130. **MANUFACTURED HOME ACCESSORY BUILDING OR STRUCTURE:** A subordinate building or structure which is an addition to or supplements the facilities provided by a manufactured home, such as awnings, cabanas, storage structures, carports, porches, fences, skirting, or windbreaks.
131. **MANUFACTURED HOME LOT:** A plot of ground within a manufactured home park for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.
132. **MANUFACTURED HOME PAD:** That portion of the manufactured home lot on which the manufactured home unit, and any attached awning, is placed.

133. **MANUFACTURED HOME PARK:** An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
134. **MANUFACTURED HOME PARK PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or extension of a Manufactured Home Park.
135. **MANUFACTURED HOME SALES AREA:** An open space, other than a street, used for display or sale of new or used manufactured homes and where no repair work is done except minor incidental repair of manufactured homes to be displayed and sold on the premises.
136. **MANUFACTURED HOME SKIRTING:** The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home.
137. **MANUFACTURED HOME SUBDIVISION:** Any area, piece, parcel, tract or plot of ground used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
138. **MANUFACTURED HOME, RESIDENTIAL-DESIGN:** A manufactured home on a permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes.
139. **MOBILE HOME:** A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard.
140. **MODULAR HOME:** A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.
141. **MOTOR HOME:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.
142. **MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

143. **MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.
144. **MULTI-FAMILY LAND USE:** The use of any lot or tract of land for two-family and/or multi-family dwellings.
145. **NONCONFORMING BUILDINGS, LAND AND/OR USE:** The use of a building or land which was lawful at the time this Ordinance became effective but which, because of the passage of this Ordinance, does not conform to the regulations of the district in which it exists.
146. **NONCONFORMING LOT:** An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
147. **NOXIOUS MATTER:** Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.
148. **NURSERY:** Any land used to raise trees, shrubs, flowers and other plants for sale or for transporting.
149. **NURSING OR CONVALESCENT HOME:** An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or more unrelated individuals, but not including group boarding homes for minors or group homes for adults.
150. **OPEN SPACE:** Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.
151. **OUTDOOR STORAGE:** The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.
152. **OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.
153. **OWNER:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.
154. **PACKAGE LIQUOR STORE:** An establishment in which alcoholic beverages are sold for consumption off the premises.
155. **PARKING LOT:** An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.

156. **PARKING SPACE:** Any area surfaced for all-weather use, including gravel, sand, or comparable materials, used for the purpose of storing one parked motor vehicle.
157. **PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.
158. **PLANNING COMMISSION:** The Planning Commission of Valley Falls, Kansas.
159. **PRESCHOOL:** A facility licensed by the State of Kansas to provide daytime care and instruction for children between the age of thirty (30) months and the age at which the children are eligible to attend kindergarten. This term is further construed to include "Day Nursery School" and other similar uses.
160. **RECREATIONAL EQUIPMENT:** An item which is not used in connection with customary accessory residential uses on a lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen (14) feet in length which require a trailer for transportation.
161. **RECREATIONAL OR SPORTS-RELATED ACTIVITIES OR FACILITIES:** Any lot, plot, parcel or tract of land and/or water; and/or any building or structure, or combination thereof; planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, miniature golf courses, swimming pools, natatoriums, tennis courts, racquetball courts, recreational lakes, marinas, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.
162. **RECREATIONAL VEHICLE:** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.
163. **RECREATIONAL VEHICLE CAMPGROUND:** A lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.
164. **RESIDENTIAL CENTER:** A non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons unrelated to the operator(s).
165. **RESTAURANT:** A building wherein food is prepared and sold to the public for human consumption. Restaurant includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.

166. **RIDING STABLES:** Structures in which saddle horses are kept, maintained and/or boarded, and in connection with which saddle horses may be rented to the general public or made available to members of a private club. Exercise rings and show rings shall be considered uses accessory to the use of the premises for a riding stable.
167. **RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, or other public utility or service area.
168. **SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.
169. **SALE, WHOLESALE:** The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.
170. **SANITARY LANDFILL:** A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
171. **SCHOOL:** Any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.
172. **SCREENING:** Fencing or vegetation maintained for the purpose of concealing from view.
173. **SETBACK:** The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
174. **SIGN:** See Article 20.
175. **SLIDE-IN CAMPER:** A structure designed to be mounted temporarily or permanently in the bed of a pickup or light truck to provide enclosed storage space for transportation of property or quarters for recreational camping, including shells and truck cabs.
176. **SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.
177. **STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.

178. **STORE OR STORAGE:** As related to waste tires, means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, and such other beneficial uses determined not to create health or environmental risks by the Secretary of Health and Environment of the State of Kansas.
179. **STORY:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
180. **STORY, HALF:** A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.
181. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
182. **STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.
183. **SWIMMING CLUB:** A pool and accessory building operated for members and their guests, whether or not operated for gain.
184. **SWIMMING POOL, PRIVATE:** A pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.
185. **SWIMMING POOL, PUBLIC:** A pool and accessory buildings, generally owned and operated by a governmental entity, whether open or enclosed, and for use by the general public.
186. **TAVERN:** An establishment in which cereal malt beverages are sold or served to customers.
187. **TOWNHOUSE:** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.
188. **TRAVEL TRAILER:** A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.
189. **TRAILER PARK:** A tract, lot, or parcel of land upon which temporary accommodations are provided for two or more trailers; such park being open to the public either free or for a fee.
190. **USE:** The specific purpose for which land or a building is used.

191. **USEABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or other substantial improvements and which is readily accessible by the public or residents of a residential development. Useable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.
192. **VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.
193. **WASTE TIRE:** A whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect, as defined in K.S.A. 65-3424, et seq, and amendments thereto.
194. **WASTE TIRE ABATEMENT:** The processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
195. **WASTE TIRE BENEFICIAL USE:** The use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires. This shall not include the disposal of waste tires on the owners land simply to avoid proper disposal as prescribed by this Ordinance and/or state law.
196. **WASTE TIRE COLLECTION CENTER:** A site where used or waste tires are collected from the public prior to being offered for recycling or disposal.
197. **WASTE TIRE PROCESSING FACILITY:** A site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
198. **WASTE TIRE SITE:** A site at which 1,000 or more whole tires are accumulated.
199. **YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
200. **YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.
201. **YARD, REAR:** A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.
202. **YARD, SIDE:** A yard between the side building line and the side line of the lot and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.

203. **ZONE OR DISTRICT:** A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.

204. **ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the requirements of this Ordinance.

1-105 **Districts:** The following districts are created in order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings. The City of Valley Falls, Kansas, is hereby divided into districts of which they shall be in number, known as:

- "R-1A" Single-Family Residential District
- "R-1B" Single-Family Residential District
- "R-1C" Single-Family Residential District
- "R-2" Two-Family Residential District
- "RP-3" Planned Medium Density Residential District
- "RP-4" Planned Apartment House District
- "CP-0" Planned Commercial Office District
- "CP-1" Planned Neighborhood Commercial District
- "CP-2" Planned General Commercial District
- "CP-3" Planned Highway Service Commercial District
- "CP-4" Planned Central Business District
- "IP-1" Planned Light Industrial District
- "IP-2" Planned Medium Industrial District

The above listing shall be considered as listing the districts in their respective order from most restrictive to least restrictive. Requests for "rezoning" may be approved for a more restrictive classification than that requested based on the above listing.

1. Such land, and the district classification thereof, shall be shown on the official map designated as the "Zoning District Boundary Map of Valley Falls, Kansas." Such Zoning District Boundary Map, and all symbols, notations, dimensions, and references shown thereon pertaining to such districts shall be as much a part of this Ordinance as if it were fully described herein, and shall be filed as part of this Ordinance with the Zoning Administrator of Valley Falls, Kansas. Said Map shall be available for inspection in the office of the Zoning Administrator as well as in the office of the City Clerk, and any later alterations of the Map, adopted by amendment as provided by this Ordinance, shall be filed and made available for public reference. The above stated map shall hereinafter be referred to as the "map" in this document.
2. When uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Ordinance, the following rules shall apply:

- a. In cases where a boundary line is given a position within a street or alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream; and if the actual location of such street, alley, or stream varies slightly from the location as shown on the maps, then the actual location shall control.
 - b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
 - c. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
 - d. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of this Ordinance are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Ordinance of the Governing Body.
 - e. In unsubdivided property, unless otherwise indicated, the district boundary line on the map accompanying and made a part of this Ordinance shall be determined by the use of the scale contained on such map.
 - f. When a lot held in one ownership on the effective date of this Ordinance is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district; unless otherwise indicated on the map or by Ordinance of the Governing Body.
3. Where a district boundary follows a street, alley, watercourse or other right-of-way, in case of the vacation of said street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof.

1-106 General Regulations Governing All Zoning Districts:

A. Except as hereinafter provided:

1. No land may be used except for a purpose permitted in the district in which it is located.

2. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height, area and bulk regulations, the parking regulations, or the off-street loading regulations herein established for the district in which the building is located.
4. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of this Ordinance.
5. The minimum yards, parking spaces, open spaces, including lot area per family, required by this Ordinance for each and every building existing at the time of the passage of this Ordinance, or of any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of this Ordinance.
6. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
7. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and loading spaces required by Articles 18 and 19 are provided. No structure or use already established on the effective date of this Ordinance shall be enlarged unless the minimum off-street parking and loading spaces which would be required by Articles 18 and 19 are provided for the whole structure or use as enlarged.
8. Nothing contained in this Ordinance shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.

B. Zoning of Annexed Lands: Unless land is rezoned at the time of its annexation into the City, the land shall retain its zoning status under Jefferson County Zoning Regulations until such time as the property is rezoned pursuant to the provisions of this Ordinance. The City shall have the authority to secure civil remedies for violations of such Jefferson County Zoning Regulations to the same extent that it may secure civil remedies for violations of this Ordinance pursuant to Section 31-102, herein.

1-107 Vesting of Development Rights: In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

- A. The rights of landowners of properties platted or subdivided for residential purposes prior to the adoption of this Ordinance shall be protected from the requirements of this Ordinance for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
1. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed plats recorded with the Register of Deeds; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
 2. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
 3. The division of land was legally done in conformance with the then Valley Falls Subdivision Regulations.
- B. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in this Ordinance, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
- C. Properties divided or platted for any use other than residential purposes shall not be permitted to develop or further develop except in conformance with this Ordinance and the Valley Falls Subdivision Regulations. Persons who obtained a validly issued permit under the previous Valley Falls Zoning Ordinance shall be permitted to develop the property so long as the permit issued under the previous Valley Falls Zoning Ordinance does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of this Ordinance, the Valley Falls Subdivision Regulations, or any other applicable Ordinances or regulations then in effect.

ARTICLE 22
SUPPLEMENTARY USE REGULATIONS
CONDITIONAL USES
ACCESSORY USES
PROHIBITED USES

Sections:

- 22-101 Application of Conditional Uses
- 22-102 Qualification of Existing Special Use Exceptions
- 22-103 Additions and Changes to Conditional Uses
- 22-104 Conditional Uses Enumerated
- 22-105 Continuance of a Conditional Use
- 22-106 Accessory Uses
- 22-107 Eligibility for Accessory Use
- 22-108 Accessory Uses Allowed
- 22-109 Specialty Accessory Uses
- 22-110 Accessory Building or Structure Use
- 22-111 Prohibited Uses

22-101 Application of Conditional Uses: Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted, except as otherwise specified, in any district from which they are prohibited.

Before the location or establishment thereof, or before any change or use of the premises existing at the time of the effective date of this Ordinance or permitted as herein provided is made, a development plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 15 of this Ordinance. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 29 of this Ordinance and shall review such development plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body. *Plan*

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 15 of this Ordinance.

22-102 Qualification of Existing Special Use Exceptions: Uses operating under an existing Special Use Exception approved prior to the adoption of this Ordinance shall continue as if approved under this Ordinance. Changes in operations of uses that are listed herein as a requiring a Conditional Use Permit that would have required an amendment to the existing Special Use Exception shall be considered as a Conditional Use and considered as provided herein.

22-103 Additions and Changes to Conditional Uses: All requests for additions and structural alterations to Conditional Uses previously approved by the Governing Body shall be considered in the same procedure as outlined in Section 22-101 herein.

22-104 Conditional Uses Enumerated: The following Conditional Uses may be approved by the Governing Body as provided in this Article:

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.
2. Bed and breakfast facility.
3. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric transmission lines, reservoirs, and utility maintenance shops and yards.
4. Cemeteries, mausoleums or crematories for the disposal of the dead.
5. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
6. Commercial parking lots.
7. Commercial stockyard or feedlot.
8. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
9. Drive-in theatres.
10. Exposition centers and/or buildings.
11. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing, and/or manufacturing.
12. Fairgrounds.
13. Fire stations.
14. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
15. Greenhouses, nurseries and/or hydroponic farms operated as a retail business.
16. Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center, provided:

- a. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
 - b. A letter from the Jefferson County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.
 - c. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
 - d. When operated out of an existing or proposed residential structure, the following standards shall be met:
 - (1) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
 - (2) Outside play areas shall be fenced.
17. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
18. Hospital or clinic for large or small animals, provided:
- a. That such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
19. Judicial centers, jails, penal or correctional institutions.
20. Industrial uses, except those specifically authorized in the "IP-1" Light Industrial District and/or the "IP-2" Medium Industrial District.
21. Keeping of farm animals such as horses, ponies, cows, sheep, and chickens on a lot or tract of less than one (1) acre.
22. Kennels, either boarding or breeding, provided:
- a. Pens or open kennels shall be located at least 50 feet from the front lot line and at least 30 feet from any side or rear lot line.
 - b. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.
23. Manufactured home parks, subject to the standards established in Article 23 of this Ordinance.

24. Manufactured home subdivisions, subject to the standards established in Article 24 of this Ordinance.
25. Mortuaries and attendant accessory activities and facilities.
26. Parks and playgrounds.
27. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:
 - a. The location of every tower must be such that it is at least an equal distance from all property lines as it is in height. A plot plan shall be submitted with the application.
28. Recreational or sports-related activity or facility, whether publicly or privately owned.
29. Riding academies, stables and/or show arenas, rodeo arenas and/or facilities.
30. Salvage yards.
31. Sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, or other such similar areas not prohibited by law.
32. Schools, preschools or kindergartens, either publicly or privately owned or operated.
33. Trailer park or recreational vehicle campground, provided:
 - a. The tract to be used as a trailer park or recreational vehicle campground shall not be less than two (2) acres in area. Under no circumstances shall a mobile home be parked in a trailer park or recreational vehicle campground.
 - b. The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; provided that no individual space shall be designed for direct access to a street outside the boundaries of the trailer park or recreational vehicle campground, and that all interior access drives shall be at least 20 feet in width. All interior access drives and parking areas shall be paved with concrete or asphaltic concrete paving.
 - c. The minimum area for a space for parking one trailer or recreational vehicle shall be 1,400 square feet, with minimum dimensions of 35 feet by 40 feet and with corners of each site visibly marked by a permanent marker.

- d. The trailer park or recreational vehicle campground shall contain community facilities, including play space, utility rooms, parking and access roads. In addition, every trailer park or recreational vehicle campground shall contain at least one (1) service building and shall provide one (1) additional service building for each 100 spaces. Each service building shall:
- (1) Be located within three hundred (300) feet of the trailer park or recreational vehicle campground;
 - (2) Be of permanent construction;
 - (3) Have one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for females; and one (1) flush-type toilet; one (1) lavatory, and one (1) shower or bathtub for males for each thirty (30) spaces. All lavatories, bathtubs, and showers shall be connected with both hot and cold running water;
 - (4) Have an accessible, adequate, safe and potable supply of cold water;
 - (5) Comply with all applicable adopted building codes regarding the construction of buildings and the installation of electrical, plumbing, heating and air-conditioning systems; and,
 - (6) Be maintained in a clean, sanitary condition and kept free of any condition that will menace the health of any occupants of the public or will constitute a menace.
- e. The trailer park or recreational vehicle campground shall be surrounded by an open space 50 feet wide along the street frontage with an arterial highway or section line road, and 25 feet wide along all other lot lines or street frontages. Screening at least six (6) feet in height shall be provided between the trailer park or recreational vehicle campground and any adjoining residential area.
- f. No trailer or recreational vehicle shall be parked closer than 25 feet to any part of any other trailer or service building and no part of a trailer or recreational vehicle shall extend closer than 5 feet to the boundaries of the individual space.
- g. Off-street parking spaces for motor vehicles shall be provided in the ratio of one parking space per individual space; said spaces to be located in convenient location to individual spaces.
- h. In a residential district, accessory signs, in addition to internal directional signs, shall be limited to one flat or detached sign, with sign area limited to 25 square feet. Said sign may be illuminated.

- i. Proper provision shall be made for public water supply, sanitary sewage disposal, fire protection, refuse collection, laundry, toilet and bathing facilities. All shall be indicated on a site plan of the proposed trailer park and shall be installed and/or constructed in accordance with all other state and/or local laws and regulations. A sewage dump station shall be provided within every trailer park or recreational vehicle campground.
- j. The proposed trailer park or recreational vehicle campground shall comply with all provisions of this and other federal, state and/or local laws and regulations.

34. Truck stops and/or truck terminals.

35. Zoos, commercial aquariums, or aviaries.

36. Any other use not specifically listed as a permitted and/or accessory use in any district in this Ordinance, or as a prohibited use.

22-105 Continuance of a Conditional Use: A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of authorization, as long as all conditions placed on it are met; however, if that particular use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held and a new Conditional Use Permit approved.

22-106 Accessory Uses: Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof and shall be on the premises of the main use.

22-107 Eligibility for Accessory Use: The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

22-108 Accessory Uses Allowed: Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, "R-1C" Single-Family Residential, and "R-2" Two-Family Residential District, only the following accessory uses are allowed:

- a. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:

- Accessory off-street parking and loading spaces
- Fences or walls
- Flag poles
- Gates or guard houses for subdivisions
- Guest houses
- Home barbecue grills

Parabolic and satellite dish-type antennas
Play equipment
Private garages and carports ~~A~~
Servants quarters
Small storage sheds
Solar collectors
Swimming pools
Television and radio receiving antennas less than 50 feet in height

No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 900 square feet.

- b. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- c. Home occupations such as, but not limited to, the following:

Accountant
Architect
Artist
Attorney
Author or writer
Chiropractor
Clergyman
Cosmetologist
Counselor
Dentist
Engineer
Home crafts
Insurance Agent
Osteopath
Photographer
Physician
Planner
Real Estate Agent
Salesman
Seamstress/Dressmaker
Secretary/Typist

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

The following conditions and restrictions shall apply to such customary home occupations:

- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.

- (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
 - (3) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
 - (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
 - (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
 - (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
2. In Districts "RP-3" Planned Medium Density Residential and "RP-4" Planned Apartment House, only the following accessory uses are allowed:
- a. Where single-family and two-family dwellings are permitted, the accessory uses permitted for said single-family and two-family dwellings are those permitted in Section 23-108 (1), above.
 - b. Accessory buildings and uses commonly associated with multi-family residential activity, including, but not limited to, the following:
 - Accessory off-street parking and loading spaces
 - Fences and walls
 - Flag poles
 - Gates or guard houses
 - Maintenance buildings for the complex
 - Parabolic and satellite dish-type antennas
 - Play equipment
 - Power generators
 - Recreation areas and buildings, clubhouses
 - Swimming pools
 - Television and radio receiving antennas less than 50 feet in height
 - Trash collection centers
 - Vending machines, mail rooms and laundry facilities in common areas

No accessory building or use shall occupy a required front yard (except flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 900 square feet.

c. Home occupations such as, but not limited to, the following:

Accountant
Architect
Artist
Attorney
Author or writer
Chiropractor
Clergyman
Cosmetologist
Counselor
Dentist
Engineer
Home crafts
Insurance Agent
Osteopath
Photographer
Physician
Planner
Real Estate Agent
Salesman
Seamstress/Dressmaker
Secretary/Typist

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

The following conditions and restrictions shall apply to such customary home occupations:

- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
- (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
- (3) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
- (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
- (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
- (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

- d. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
3. In Districts "CP-0" Planned Commercial Office, "CP-1" Planned Neighborhood Commercial, "CP-2" Planned General Commercial, "CP-3" Planned Highway Service, and "CP-4" Planned Central Business District, only the following accessory uses are allowed:
 - a. Awnings, subject to the restrictions in Section 19-105(2)(c).
 - b. Parking areas, loading areas, and/or private garages for motor vehicles.
 - c. Exterior lighting, including floodlighting.
 - d. Radio, television, and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
 - e. Fences or walls, including security or screen fences or walls.
 - f. Flagpoles, cooling towers and other similar uses.
 - g. Food service and vending machines for tenants.
 - h. Solar collectors.
 - i. Parabolic and satellite dish-type antennas.
 - j. Washing and other motor vehicle cleaning shall be permitted as an accessory use in service stations, provided such washing and cleaning shall not utilize more than two car stalls or more than 30 percent of the floor area in any one station, shall be a part of the main building, shall not be equipped to handle anything larger than a one ton truck, and shall not be open for use during hours when the service station is closed. Such washing and cleaning operation shall utilize the same entrance drives as the service station and may use coin-operated or attendant-operated equipment, but not continuous line or conveyor type washing equipment.
 - k. Material storage yards, in connection with retail sales of products sold on the premises, where storage is incidental to the approved occupancy of a building, provided all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, fence or hedge no less than 6 feet in height. Storage of all materials and equipment shall not exceed the height of said wall or fence. Storage of motor vehicles used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment such as road-building or excavating equipment.
 4. In Districts "IP-1" Planned Light Industrial and "IP-2" Planned Medium Industrial only the following accessory uses are allowed:

- a. Awnings, subject to the restrictions in Section 19-105(2)(c).
- b. Parking areas, loading areas and/or private garages for motor vehicles.
- c. Exterior lighting, including floodlighting.
- d. Fences or walls, including security or screen fences or walls.
- e. Loading equipment.
- f. Parabolic and satellite dish-type antennas.
- g. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
- h. Gate houses.
- i. Employee recreation facilities.

22-109 Specialty Accessory Uses: The following uses, activities, or items shall be the accessory uses or restrictions allowable:

- 1. Hotels, Motels, Motor Hotels: The following are accessory uses within a hotel, motel or motor hotel:

- Restaurant
- Health clubs, spas and exercise rooms
- Clubs
- Drinking establishments
- Banquet rooms
- Notion counters
- Newspaper and magazine counters
- Vending machines
- Arcades
- Beauty and barber shops
- Flower and gift shops
- Swimming pools

Provided all except swimming pools are within the main building and designed to serve the occupants and patrons of the hotel, motel or motor hotel.

- 2. Hospitals: The following are accessory uses within a hospital:

- Residential quarter for staff and employees
- Nursing and convalescent quarters
- Storage and utility buildings
- Food service and vending machines
- Laundry and dry cleaning pickup and delivery
- Flower and gift shops
- Other similar services for hospital personnel, visitors and patients

3. Construction Sites:

- a. Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.

4. Recreational Vehicles and Trailers:

- a. Recreational vehicles may be parked in a trailer park or a recreational vehicle campground. Recreational vehicles or equipment may also be stored within any "R-1A", "R-1B", "R-1C", "R-2", "RP-3", "RP-4", "CP-0" and "CP-1" District, provided; said recreational vehicle or recreational equipment, as defined in this Ordinance, may be stored within an enclosed structure (which structure otherwise conforms to the requirements of this Ordinance), or may be permanently parked upon the private property of the premise if said recreational vehicle or recreational equipment is not parked within 10 feet of any curb line or roadway and does not interfere or impede travel on any public sidewalk or thoroughfare.
- b. At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes, except; a recreational vehicle permanently parked in compliance with this Ordinance may be occupied for sleeping purposes only, for a period not to exceed fourteen (14) consecutive calendar days in any three (3) month period. The Zoning Administrator may authorize an extension of time for extenuating circumstances upon receipt of a written request.
- c. A recreational vehicle or recreational equipment may be connected only to the electrical utility system. All other utilities and life support systems must be disconnected when said vehicle is permanently parked. Such connection must be in accordance with the National Electrical Code, and said connection must be available for inspection during regular business hours by the Zoning Administrator or his designated agent.
- d. The parking of recreational vehicles or recreational equipment shall be prohibited in the visibility triangle as defined in this Ordinance, nor shall they be parked or stored so as to hinder visibility of traffic.
- e. Recreational vehicles or recreational equipment shall not be parked on any public street or right-of-way for a period longer than 24 consecutive hours; except, however, light vans, light trucks, and light trucks having a slide-in camper not extending over the top of or wider than the truck cab, may park upon those streets where vehicle parking is otherwise permitted.

- f. The provisions of this Ordinance regarding recreational vehicles do not apply to those businesses displaying recreational vehicles or recreational equipment for sale or service when said business is located in the proper zoning district and licensed in accordance with City Codes.

5. Fences or Walls:

- a. Fences or walls may be constructed to a maximum height of eight (8) feet above the average grade subject to the restrictions of this Article. For all fences or walls greater than six (6) feet in height, where a new fence or wall is constructed or an existing fence or wall is being extended, a permit shall be obtained from the City. A fence permit shall also be required for the replacement or reconstruction of 50 percent (50%) or more of the linear feet of the entire existing fence. Any such replacement or reconstruction shall comply with all the provisions of this Article except setbacks. In determining the height of a fence, the material used in the fence posts shall not be considered.
- b. Fences or walls (including retaining walls) in any planned district shall be approved by the Planning Commission as part of the development plan prior to the issuance of any fence permit.
- c. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained.
- d. All fences or walls constructed prior to the adoption of this Ordinance which do not meet the standards of this Article may be replaced and maintained resulting in a fence the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in this Article.
- e. In all districts, the following restrictions and standards shall apply to all fences and walls:
 - (1) Location.
 - (a) Front yard. A fence or wall not more than three (3) feet in height may project into or enclose any required front yard or side yard to a depth from the street line equal to the required depth of the front yard.
 - (b) Rear yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted easement. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed no closer than fifteen (15) feet to the rear property line.

(c) Side yard. A fence or wall may be constructed on the side property line, except that no fence shall be closer than fifteen (15) feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted easement.

(d) Corner lot. A fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard along the street frontage of the lot.

(2) Design Standards.

(a) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.

(b) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one (1) gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.

f. Spikes and Barbed Wire Fences. No person shall place or permit to be placed or remain on any fence or wall, within five (5) feet of any public street or sidewalk or less than six (6) feet above grade, any spikes or sharp pointed cresting, or any barbed wire, or other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.

g. Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.

h. Swimming Pools. Private swimming pools having a water depth of two (2) feet or more shall be separated from the remainder of the yard by a protective fence or other permanent structure at least four (4) feet in height. The protective enclosure shall be maintained by locked gates or entrances when the pool is not tended by a qualified and responsible person.

22-110 Accessory Building or Structure Use: No accessory building or structure shall be constructed upon a lot until the construction of the main building or structure has been actually commenced. No accessory building or structure shall be used unless the main building or structure on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part.

22-111 Prohibited Uses: After the effective date of this Ordinance:

1. No mobile home, as defined in this Ordinance, shall be moved, relocated, or otherwise placed on any property in Valley Falls, including within any Manufactured Home Park or Manufactured Home Subdivision.

2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within this Ordinance. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No cellar or basement shall be used as a dwelling.
5. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use, unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within this Ordinance.
6. No exotic birds or animals shall be kept on any lot or in any building within the City of Valley Falls, Kansas.
7. No quarrying or mining activity of any type shall be permitted within the corporate limits of the City of Valley Falls, Kansas.

ARTICLE 21
SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

Sections:

- 21-101 Application
- 21-102 Modification of Height Regulations
- 21-103 Modification of Area Regulations

21-101 Application: The regulations set forth in this Article qualify or supplement the district regulations appearing elsewhere in this Ordinance.

21-102 Modification of Height Regulations:

1. The height regulations as prescribed in this Ordinance shall not apply to the following:

- Belfries
- Chimneys
- Church Spires
- Conveyors
- Cooling Towers
- Elevator Penthouses
- Fire Towers
- Flag Poles
- Grain Elevators
- Monuments
- Ornamental Towers and Spires
- Smoke Stacks
- Stage Towers or Scenery Lofts
- Tanks
- Water Towers
- Lighting Poles or Standards

2. Public or semi-public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 75 feet, when the required side and rear yards are increased by at least 1 foot for each 1 foot of additional building height above the height regulations for the district in which the building is located.

21-103 Modification of Area Regulations:

1. Yards, generally:

- a. Except as herein provided for accessory buildings and structures, whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.
- b. Every part of a required yard shall be open to the sky, except as authorized by this Article. Ordinary projections of sills, awnings, canopies, belt courses, air conditioning units, chimneys, cornices, and ornamental features may project to a distance not to exceed 24 inches into a required yard setback.

- c. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, school, institutional, hotel, or motel purposes, there may be more than one main building on the lot where such buildings are arranged around a court having a direct street access; provided, however:
- (1) That said court, between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for 1-story buildings, 40 feet for 2-story buildings, and 50 feet for 3-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
 - (2) Where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 20 feet for 1-story buildings, 30 feet for 2-story buildings, and 40 feet for 3-story buildings.
- d. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.

2. Accessory Buildings and Structures:

- a. Except as herein provided, no accessory building shall project into a required yard setback along any street.
- b. In Districts ^{"R-1A" - Dual Yards Type} "R-1B", "R-1C" and "R-2", accessory buildings may be located in a required side or rear yard; however, no accessory building may be located closer than 5 feet from a rear lot line, nor less than 3 feet from a side lot line. No alley may be used in meeting this requirement.
- c. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 15 feet from the property line, and further provided that canopies and other similar coverings over the pumps and pump islands shall have at least 14 feet of clearance and shall not project beyond the property line.
- d. Accessory, open and uncovered swimming pools and permanent barbecue grills may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.
- e. Accessory storm caves which are not a part of the main building may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.
- f. Accessory buildings which are not a part of the main building, although connected by an open breezeway, may be constructed under the requirements of Section 21-103(2)(b).

- g. Parabolic or satellite dish-type antennas may be placed in any district.

3. Front Yards:

- a. When an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- b. On double frontage lots, the required front yard shall be provided on each street frontage.
- c. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which extend or project into the front and side yard shall not extend or project into the required front yard more than 10 feet or into the required side yard more than 6 feet.
- d. Where 25 percent or more of the street frontage within 200 feet of the property in question is improved with buildings that have a front yard (with a variation of 6 feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50 percent in excess of the depth of the required front yard in the district in which the lot is located shall not be required. Where 40 percent or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.

4. Side Yards:

- a. The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case the depth of the yard shall be as required in the district in which the building is located.

5. Rear Yards:

- a. Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.

6. Corner Visibility:

- a. No sign, fence, wall, hedge, planting, or other obstruction to vision, extending to a height in excess of 3 feet above the established street grade measured from the crown of the street, shall be erected, planted, or maintained within the visibility triangle area of a corner lot.

7. Easements:

- a. No building, either a main or an accessory building, shall be constructed, moved, or altered so as to encroach onto or within a platted or recorded easement.

ARTICLE 16
PERFORMANCE STANDARDS

Sections:

- 16-101 Purpose
- 16-102 Performance Standards - Districts "R-1A", "R-1B", R-1C" and "R-2"
- 16-103 Performance Standards - Districts "RP-3" and "RP-4"
- 16-104 Performance Standards - Districts "CP-0" and "CP-1"
- 16-105 Performance Standards - Districts "CP-2" and "CP-3"
- 16-106 Performance Standards - District "CP-4"
- 16-107 Performance Standards - District "IP-1"
- 16-108 Performance Standards - Districts "IP-2"
- 16-109 Performance Standards - Conditional Uses

16-101 Purpose: The regulations set forth in this Article, or set forth elsewhere in this Ordinance when referred to in this Article, are the performance standards for uses permitted within this Ordinance. The standards established herein are intended to provide guidance in the development or redevelopment of property in Valley Falls for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found elsewhere in the community. The standards stated within this Article are the minimum required or maximum permitted, whichever the case may be, for the uses permitted in this Ordinance.

16-102 Performance Standards - Districts "R-1A", "R-1B", R-1C" and "R-2": The following are the performance standards for the "R-1A" Single-Family Residential District, "R-1B" Single-Family Residential District, "R-1C" Single-Family Residential District, and the "R-2" Two-Family Residential District:

1. No main or accessory building or structure shall project beyond the property line. Nothing shall be allowed to be placed in any public right-of-way without the express permission of the City.
2. Residential real estate sales offices are subject to the following standards:
 - a. There shall be only one residential sales office in any one subdivision.
 - b. All sales shall be limited to the sale of new properties located within that subdivision.
 - c. Any sales office within a subdivision shall be located within a permanent residential structure with a minimum dwelling size equal to or greater than that of the zoning district. Manufactured homes, mobile homes, and construction trailers shall not be permitted.
 - d. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
 - e. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.

- f. A model home complex operated in conjunction with a residential sales office may include a decorative fence in the front yard enclosing or defining the extent of the complex. To qualify as a decorative fence, the surface of the fence must be at least 50 percent open, the fence cannot be constructed of chain link or other wire materials, and the fence cannot exceed 4 feet in height. The front yard fence shall be removed upon the termination of the sales office.
3. In order for residential-design manufactured homes, when installed, to have substantially the appearance of an on-site, conventionally built, single-family dwelling in this City, the following criteria and standards shall apply:
 - a. The pitch of the roof of the manufactured home has a minimum vertical rise of 3 inches for each 12 inches of vertical run, and the roof is finished with a type of shingle that is commonly used in standard residential construction in the City.
 - b. All roof structures shall provide an eave projection of no less than one (1) foot, which may include a gutter.
 - c. The exterior siding consists predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction in the City.
 - d. The manufactured home is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1987" (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.
 - e. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground. All said construction shall be in accordance with the adopted building codes of Valley Falls, Kansas.
 - f. The moving hitch, wheels and axles, and transporting lights shall be removed.

16-103 Performance Standards - Districts "RP-3" and "RP-4": The following are the performance standards for uses in the "RP-3" Planned Medium Density Residential District and the "RP-4" Planned Apartment House District:

1. Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide separation from automobile traffic along all public and private streets, drives and parking areas.

2. Site drainage patterns shall be designed, graded and constructed to prevent surface drainage from collecting on or flowing across pedestrian paths, walks and sidewalks.
3. The maximum lot coverage shall be sixty percent (60%) for properties zoned "RP-3" and sixty-nine percent (69%) for properties zoned "RP-4".
4. A minimum of ten percent (10%) of landscaped open space shall be provided on each site as common or semi-common areas open for use and available to all persons who may reside on the premises.

16-104 Performance Standards - Districts "CP-0" and "CP-1": The following are the performance standards for uses in the "CP-0" Planned Commercial Office District and the "CP-1" Planned Neighborhood Commercial District:

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.

16-105 Performance Standards - Districts "CP-2" and "CP-3": The following are the performance standards for uses in the "CP-2" Planned General Commercial District and the "CP-3" Planned Highway Service Commercial District:

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
3. Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, and shall not reduce the capacity of a parking lot below that specified in Article 25 herein. In addition, the outdoor storage or display area shall occupy an area no greater than twenty percent (20%) of the ground floor area of the building. Automobiles and trucks for sale may be stored or displayed outside a building, but must maintain a setback of at least 10 feet from a street right-of-way, or 6 feet from a side or rear lot line.
4. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.

16-106 Performance Standards - District "CP-4": The following are the performance standards in the "CP-4" Planned Central Business District:

1. Only that property which is designated "CP-4" on the official zoning map shall be subject to the requirements of the "CP-4" Zoning District.

2. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
3. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
4. Merchandise which may appropriately be displayed or stored outside a building shall be kept off the public sidewalks and streets, except during special promotional activities and sales approved by the Governing Body with a special event permit.

16-107 Performance Standards - District "IP-1": The following are the performance standards in the "IP-1" Planned Light Industrial District:

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square feet.

~~16~~¹⁶-108 Performance Standards - Districts "IP-2": The following are the performance standards in the "IP-2" Planned Medium Industrial District:

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square

16-109 Performance Standards - Conditional Uses: The following are the performance standards for Conditional Uses authorized by this Ordinance.

1. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
2. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.
3. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
4. No activity shall be permitted that creates any off-site electrical disturbance.
5. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

CHAPTER VIII. HEALTH AND WELFARE

Article 1.	Board of Health
Article 2.	Health Nuisances
Article 2A.	Environmental Code
Article 3.	Junked Motor Vehicles on Private Property
Article 4.	Weeds
Article 5.	Minimum Housing Code
Article 6.	Rodent Control
Article 7.	Insurance Proceeds Fund

ARTICLE 1. BOARD OF HEALTH

- 8-101. BOARD OF HEALTH CREATED. The board of health shall consist of a city health officer, who shall be a practicing doctor of medicine and two additional members who shall be members of the governing body. The city health officer and the two additional members of the board of health shall be appointed annually by the mayor at the first regular meeting of the governing body in April of each year, to serve for one year terms subject to confirmation by the council; provided, that a member of the governing body appointed to the board of health shall have no right to vote for or against his or her own confirmation. The board shall adopt such rules and regulations as may be necessary to guide its operations. The city clerk shall be secretary of the board but shall have no vote. He or she shall preserve its records, rules and regulations and shall issue all orders and notices which may be required by ordinance or order of the board. (Code 2006)
- 8-102. CITY HEALTH OFFICER; DUTIES. The Jefferson County Public Health Officer is hereby designated as public health officer of the City of Valley Falls. The health officer shall:
- (a) Cause health investigations and inspections to be made as required by the laws of Kansas and of the city;
 - (b) Make recommendations to the board respecting the improvement of health of the inhabitants of the city;
 - (c) Make all health reports required by the State Department of Health and Environment, Division of Health;
 - (d) Prepare an annual health report of the city for submission to the governing body;
 - (e) Perform such other duties as may be required of him or her under the laws of the State of Kansas or of the city.
- (Code 1983, 8-101)

ARTICLE 2. HEALTH NUISANCES

8-201. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed within 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water;

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.

(K.S.A. 21-4106:4107; Code 2006)

8-202. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2006)

8-203. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 2006)

8-204. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2006)

8-205. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the

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

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

(K.S.A. 12-1617e; Code 2006)

8-206. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-201. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 10 days from the date of serving the order to abate the condition(s) in violation of section 8-201; or

(b) He, she or they have 10 days from the date of serving the order to request a hearing before the governing body or its designated representative of the matter as provided by section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208.

(Code 2006)

8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed \$100.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2006)

8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-207, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

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

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(Code 2006)

8-209. HEARING. If a hearing is requested within the 10 day period as provided in section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-208. (Code 2006)

8-210. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2006)

ARTICLE 2A. ENVIRONMENTAL CODE

- 8-2A01. TITLE. This article shall be known as the "Environmental Code."
(Code 2006)
- 8-2A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 2006)
- 8-2A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2006)
- 8-2A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:
- (1) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."
 - (2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.
 - (3) Number - Words of number shall be construed to mean singular or plural, as may be applicable.
 - (4) Tense - Words of tense shall be construed to mean present or future, as may be applicable.
 - (5) Shall - The word shall is mandatory and not permissive.
- (Code 2006)
- 8-2A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:
- (1) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the code; or incapable of moving under its own power; or in a junked or wrecked condition.

(2) Accessory Structure - a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.

(3) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.

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

(5) Exterior - those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(6) Garbage - without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

(7) Person - any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

(8) Premises - any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(9) Refuse - garbage and trash.

(10) Residential - used or intended to be used primarily for human habitation.

(11) Structure - anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(12) Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(13) Weathered - deterioration caused by exposure to the elements.

(14) Yard - the area of the premises not occupied by any structure.

(Code 2006)

8-2A06. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2006)

8-2A07. ENFORCEMENT STANDARDS. No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful

under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2006)

8-2A08. UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

(2) abandoned motor vehicles; or

(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 2006)

8-2A09. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-2A01 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may

provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

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

(b) That the person in violation shall have:

(1) 10 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;

(2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above,

(3) 10 days from the date of the mailing of the notice to request, as provided in section 8-2A13 a hearing before the governing body or its designated representative on the matter; and

(c) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-2A10 and/or abatement of the condition by the city according to section 8-2A11 with the costs assessed against the property under section 8-2A14.

(K.S.A. 12-1617e; Code 2006)

8-2A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 8-2A09 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2006)

8-2A11. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-2A05 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A06, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-2A14.

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

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

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such

order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2006)

8-2A12. HEARING BEFORE GOVERNING BODY. If a hearing is requested within the 15 day period as provided in section 8-2A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in section 8-2A11. (Code 2006)

8-2A13. APPEALS. Any person affected by any determination of the governing body under sections 8-2A11 or 8-2A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2006)

8-2A14. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2006)

8-2A15. CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2006)

ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

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

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

(Code 2006)

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

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

(Code 2006)

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

- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
- (b) The provisions of this article shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building;
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
 - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

(Code 2006)

- 8-304. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2006)
- 8-305. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 2006)
- 8-306. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2006)
- 8-307. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-301 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2006)
- 8-308. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person, corporation, partnership or association that
- (a) He, she or they shall have 10 days from the date of serving the order to abate the condition(s) in violation of section 8-301; or
- (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body or its designated representative of the matter as provided by section 8-309;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-307 and/or abatement of the condition(s) by the city as provided by section 8-310. (Code 2006)

8-309. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2006)

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

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

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same

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

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail (Code 2006)

8-311. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended. (Code 2006)

8-312. HEARING. If a hearing is requested within the 10 day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request

therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in section 8-310. (Code 2006)

- 8-313. **COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2006)

ARTICLE 4. WEEDS

8-401. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Code 2006)

8-402. DEFINITIONS. Weeds as used herein, means any of the following:

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

(Code 2006)

8-403. PUBLIC OFFICER; NOTICE TO REMOVE. (a) The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.

- (b) The notice to be given hereunder shall state:
 - (1) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;
 - (2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;
 - (3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper;
 - (4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) that no further notice will be given during the current calendar year prior to the removal of weeds from the property; and,

(7) that the public officer should be contacted if there are questions regarding the order.

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

(Code 2006)

8-404.

ABATEMENT; ASSESSMENT OF COSTS. (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified section 8-403, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 12-1617f; Code 2006)

8-405.

RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Code 2006)

8-406.

UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from

proceeding with such cutting and destruction. Such interference shall constitute an code violation. (Code 2006)

8-407.

NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*). (K.S.A. 2-1314; Code 2006)

ARTICLE 5. MINIMUM HOUSING CODE

8-501. TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2006)

8-502. GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2006)

8-503. DECLARATION OF POLICY. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate 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:

(a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;

(b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.

(c) Determines the responsibilities of owners, operators and occupants.+

(d) Provides for the administration and enforcement thereof.

(Code 2006)

8-504. DEFINITIONS. The following definitions shall apply to the enforcement of this code:

(a) Basement - shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(b) Cellar - shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(c) Dwelling - shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.

(d) Dwelling Unit - shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.

(e) Habitable Dwelling - shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

(f) Habitable Room - shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, 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 dwelling units.

(i) Occupant - shall mean any person, over one 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 premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.

(k) Owner - shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

(l) Person - shall mean and include any individual, firm, corporation, association or partnership.

(m) Plumbing - shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes- washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

(n) Premise - shall mean any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

(o) Public Officer - shall mean the Jefferson County Public Health Officer or his or her designee.

(p) Rooming House - shall mean any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(q) Rooming Unit - shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(r) Refuse - For the purpose of this article refuse shall include garbage, and trash.

(1) Garbage - shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.

(2) Trash (Combustible). - For the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

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

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

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

(u) Temporary Housing - shall mean any tent, trailer, 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 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

(v) Words - Meanings. - Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," are used in this article, they shall be construed as though they were followed by the words "or any part thereof."
(Code 2006)

8-505. DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES. (a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-508:509.

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

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

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
(Code 2006)

8-506. REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which

does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) Attached Garages or Non-dwelling Areas - All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

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

(c) Basement Dwelling Units - The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

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

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

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

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

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

(g) Entrances - (1) There shall be for each dwelling unit a normally used 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 or egress.

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

(i) Garbage and Trash Receptacles - Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32 gallon capacity, as may

be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

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

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

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

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

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

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

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

(q) Toilet Facilities - There shall be at least one flush 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.

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

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

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

(Code 2006)

8-507.

~~MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All~~

floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 2006)

8-508.

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

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

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

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

(2) Lack of:

(i) Adequate ventilation.

(ii) Light.

(iii) Cleanliness.

(iv) Sanitary facilities.

(3) Dilapidation.

(4) Disrepair.

(5) Structural defects.

(6) Overcrowding.

(7) Inadequate ingress and egress.

(8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.

(9) Air Pollution.

(c) Placarding - Order to Vacate. Any dwelling or dwelling unit 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.

(d) Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

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

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

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

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

(Code 2006)

8-509. DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL). The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

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

(1) Dead trees or other unsightly natural growth.

(2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

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

(b) Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

(Code 2006)

8-510. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL). (a) Certain Blighted Conditions covered in sections 8-508:509 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) Notice of Violation. Procedures of notification shall follow those prescribed in section 8-512.

(Code 2006)

8-511. INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES. (a) For the Purpose of Determining Compliance - with the provisions of this code, the public officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

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

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

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

(Code 2006)

8-512. NOTICE OF VIOLATIONS; PROCEDURES. (a) Informal Discussion. Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public officer will

arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) Formal Hearing. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

- (1) Shall be in writing.
- (2) Shall list the violations alleged to exist or to have been committed.
- (3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary.

(6) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the public officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing.

(Code 2006)

8-513. PUBLIC OFFICER: AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises. (Code 2006)

8-514. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:
(a) To Informally Review all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b).

(b) To Take Action as prescribed in section 8-512(b).

(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-518.

(d) Discretionary Authority may be exercised in specific cases where variance from the terms of the code as:

(1) Will not adversely affect the public health, safety or welfare of inhabitants of the city.

(2) Is in harmony with the spirit of this code.

(3) Where literal enforcement of the code will result in unnecessary hardship.
(Code 2006)

8-515. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH. At the time of the placarding and order to vacate specified by section 8-508(c) hereof, the public officer shall also issue and cause to be served upon the owner a notice

advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-512. (Code 2006)

8-516. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS. (a) Failure to Comply with the order under section 8-515 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-509 of the code.

(b) The Cost of Demolition by a Public Officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and 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 upon the lot or parcel of land on which the structure was located and the city clerk at the time of certifying other city taxes, shall certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the Structure is Removed or Demolished by the Public Officer he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (Code 2006)

8-517. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY. (a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 2006)

8-518. GOVERNING BODY; APPEALS. (a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving notice of the decision from the public officer, as provided in section 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

(b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least 10 days before the hearing.

(e) Except where an immediate hazard exists as described in section 8-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.

(Code 2006)

8-519.

RIGHT OF PETITION. After exhausting the remedy provided in section 8-518, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order. (Code 2006)

ARTICLE 6. RODENT CONTROL

8-601. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

(a) Building - Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.

(b) Occupant - The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

(c) Owner - The owner of any building or structure, whether individual, firm, partnership or corporation.

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

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

(Code 1983, 8-501)

8-602. BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 1983, 8-502)

8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 2006)

8-604. FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2006)

- 8-605. REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 1983, 8-504)
- 8-606. NOTICE TO ERADICATE RATS. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 1983, 8-505)
- 8-607. CONDITIONS CONDUCIVE TO HARBORAGE OF RATS. (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.
- (b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.
- (c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.
- (d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.
(Code 1983, 8-506)
- 8-608. INSPECTIONS. The City Administrator or his or her designated agent is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2006)

ARTICLE 7. INSURANCE PROCEEDS FUND

- 8-701. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 2006)
- 8-702. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Code 2006)
- 8-703. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-702, the insurer or insurers shall contact the county treasurer, Jefferson County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Jefferson County, Kansas. (Code 2006)
- 8-704. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Code 2006)
- 8-705. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

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

(Code 2006)

8-706. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 2006)

8-707. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

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

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

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

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

(Code 2006)

8-708. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 2006)

- 8-709. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-705(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-705(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 2006)
- 8-710. EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 2006)
- 8-711. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 2006)

Kansas Junkyard and Salvage Control Act
Chapter 68.--ROADS AND BRIDGES
PART III.--MISCELLANEOUS
Article 22.--HIGHWAY BEAUTIFICATION

68-2201. Short title. This act may be cited as the "junkyard and salvage control act." History: L. 1967, ch. 357, § 1; May 4.

68-2202. Purposes. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest, and necessary and appropriate to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to highways, roads and streets within this state. History: L. 1967, ch. 357, § 2; L. 1973, ch. 271, § 1; July 1.

68-2203. Definitions. (a) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" shall mean any establishment which is maintained, used, or operated, for storing, keeping, buying, or selling 10 or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, but such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the chief engineer of the division of water resources of the Kansas department of agriculture.

(c) "Junkyard" shall mean an establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps.

(d) "Interstate system" means that portion of the national system of interstate and defense highways, including city connecting links and portions of the Kansas turnpikes, located within this state, as officially designated, or as may hereafter be so designated, by the secretary, and approved by the proper federal authority as provided by law.

(e) "Primary system" means that portion of connected main highways, including city connecting links, as officially designated, or as may hereafter be so designated, by the secretary, and approved by the proper federal authority as provided by law.

(f) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation, including municipal corporation.

(g) "Commission" means the secretary of transportation.

(h) "Board" means the secretary of transportation. History: L. 1967, ch. 357, § 3; L. 1973, ch. 271, § 2; L. 1975, ch. 426, § 60; L. 1978, ch. 276, § 1; L. 2004, ch. 101, § 108; July 1.

68-2204. Junkyards prohibited, when. No person shall establish, operate, or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any street or highway on the interstate system or the primary system, or any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any other state, county, township highway, road, or city street, except the following:

(a) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the street or highway, or otherwise removed from sight.

(b) Those located within areas which are zoned for industrial use under authority of law.

(c) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by rules and regulations to be adopted by the secretary of transportation.

(d) Those which are not visible from the main traveled way of a street or highway on the interstate or the primary systems, or any other state, county, township highway, road, or city street. History: L. 1967, ch. 357, § 4; L. 1973, ch. 271, § 3; L. 1975, ch. 427, § 214; L. 1976, ch. 296, § 1; July 1.

68-2205. Certificate of compliance; requirements; failure to make an original or renewal application; injunction. No person shall establish, operate, or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any street or highway on the interstate or the primary systems, or any other portion of which is within 1,000 feet of the nearest edge of the right-of-way of any other state, county, township highway, road or city street, without obtaining a certificate of compliance from the secretary of transportation, which certificates shall be issued only for junkyards not prohibited by K.S.A. 68-2204, and amendments thereto. The secretary of transportation shall have the sole authority to issue certificates of compliance for the establishment, maintenance and operation of junkyards within the limits defined herein, except that an initial application for a certificate of compliance must show that such junkyards were approved by a local governing body if such approval is required by the local governing body. The secretary of transportation shall charge an annual fee of \$50 payable on or before January 1. Anyone establishing a junkyard after July 1 of any year shall pay a fee of \$25 for the remaining portion of the year. No city or county governing body shall be required to pay any fees provided for herein. All licenses issued under this section shall expire on January 1 following the date of issue. A certificate of compliance may be renewed from year to year upon paying to the secretary of transportation the sum of \$50 in advance for such renewal.

Any person who shall willfully or intentionally refuse to make an original application or renewal application, or to pay the annual certificate of compliance fee, as prescribed in this act, shall be deemed delinquent on and after February 16 of any year, or in cases where business is established after the first of the year such person shall be deemed delinquent on and after 45 days after establishment of the business and shall be assessed a penalty fee by the secretary of transportation of \$1 per day for each day such person continues to do business until the application is made and the fees have been paid. After such time it shall be unlawful for the owner, or any person, to operate the junkyard. Proceeds from such fees shall be deposited with the state treasurer in the state highway fund and be subject to disbursement as provided by law to defray the expenses of administering the provisions of this act. Whenever any person required to be certified under this act fails to make application with the secretary of transportation, or to pay the certificate of compliance fee when due, or continues to do business when the secretary of transportation has denied, suspended or revoked such application or certificate of compliance, the secretary of transportation may file an action to enjoin such person from operating in violation of this act. History: L. 1967, ch. 357, § 5; L. 1968, ch. 154, § 1; L. 1972, ch. 250, § 1; L. 1973, ch. 271, § 4; L. 1976, ch. 296, § 2; L. 1987, ch. 263, § 1; Jan. 1, 1988.

68-2206. Requirements as to screening. The secretary of transportation shall have the authority to adopt rules or regulations governing the location, planting, construction and maintenance, including the materials used in screening or fencing required by this act. Any plantings, fencing or other screening facilities located on public land or easements shall be public property. History: L. 1967, ch. 357, § 6; L. 1975, ch. 426, § 61; Aug. 15.

68-2207. Junkyards lawfully in existence. Any junkyard which was lawfully in existence on May 4, 1967, and duly certified in the subsequent year and which is within 1,000 feet of the nearest edge of the right-of-way and visible from the main traveled way of any street or highway on the interstate or the primary systems and any junkyard within 1,000 feet of the nearest edge of the right-of-way and visible from the main traveled way of any other state, county, township highway, road or city street, and which is not located as specified in subsection (b) or (c) of K.S.A. 68-2204, and amendments thereto, shall be screened, if feasible and if federal funds are available, by the secretary of transportation at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way so as not to be visible from the main traveled way of such highway. History: L. 1967, ch. 357, § 7; L. 1973, ch. 271, § 5; L. 1975, ch. 427, § 215; L. 1987, ch. 263, § 2; Jan. 1, 1988.

68-2208. Acquisition of land, when. When the secretary of transportation determines that the topography of the land adjoining the highway, road or street will not permit adequate screening of any junkyard lawfully in existence, or the screening of such a junkyard would not be economically feasible, the secretary shall have the authority to acquire by gift, purchase, exchange, or condemnation, such interests in lands as may be necessary to secure the relocation, removal or disposal of the junkyards; and to pay for the costs of relocation, removal, or disposal, thereof. When the secretary determines that it is in

the best interest of the state the secretary may acquire such lands, or interests in lands, as may be necessary to provide adequate screening of such junkyards. History: L. 1967, ch. 357, § 8; L. 1973, ch. 271, § 6; L. 1975, ch. 427, § 216; Aug. 15.

68-2209. Nuisances. Any junkyard which comes into existence after the effective date of this act, or was being maintained in violation of law on the effective date of this act, or after said date is altered, changed or enlarged so as not to conform to this act, and which is not made to conform to the act by the owner or operator thereof or is operated or maintained in violation of this act is declared to be a public and private nuisance. History: L. 1967, ch. 357, § 9; L. 1973, ch. 271, § 7; July 1.

68-2210. Interpretation. Nothing in this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution, which are more restrictive than the provisions of this act. History: L. 1967, ch. 357, § 10; May 4.

68-2211. Agreements with the United States authorized. The secretary of transportation is hereby authorized to enter into agreements with the United States secretary of commerce as provided by title 23, United States code, relating to the control of junkyards in areas adjacent to the interstate and the primary systems, and to take action in the name of the state to comply with the terms of any such agreement. History: L. 1967, ch. 357, § 11; L. 1975, ch. 427, § 217; Aug. 15.

68-2212. State salvage board abolished; transfer of powers, duties and functions to secretary of transportation; provisions for transition and continuity. (a) The state salvage board is hereby abolished. All of the powers, duties and functions of the state salvage board are hereby transferred to and conferred and imposed upon the secretary of transportation. The secretary of transportation shall be the successor in every way to the powers, duties and functions of the state salvage board in which the same were vested prior to August 15, 1975. The secretary of transportation shall be a continuation of the state salvage board, and every act performed under the authority of the secretary of transportation shall be deemed to have the same force and effect as if performed by the state salvage board in which such functions were vested prior to August 15, 1975.

(b) On and after August 15, 1975, whenever the state salvage board, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of transportation.

(c) All rules or regulations of the state salvage board in existence on August 15, 1975, shall continue to be effective and shall be deemed to be the rules or regulations of the secretary of transportation, until revised, amended, repealed or nullified pursuant to law. History: L. 1967, ch. 357, § 12; L. 1974, ch. 348, § 35; L. 1974, ch. 277, § 1; L. 1975, ch. 426, § 62; Aug. 15.

68-2213. Denial, suspension or revocation of certificate of compliance; hearing; judicial review. The secretary of transportation may deny the application of any person for a certificate of compliance under this act and may suspend or revoke a certificate of compliance issued or refuse to issue a renewal thereof. Orders under this section, and proceedings thereon, are subject to the provisions of the Kansas administrative procedure act and are subject to review in accordance with the act for judicial review and civil enforcement of agency actions. History: L. 1967, ch. 357, § 13; L. 1973, ch. 271, § 8; L. 1975, ch. 427, § 218; L. 1986, ch. 318, § 126; L. 1987, ch. 263, § 3; L. 1988, ch. 356, § 272; July 1, 1989.

68-2214. Severability. If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section. History: L. 1967, ch. 357, § 14; May 4.

68-2215. Unlawful junkyard maintenance; penalty. Unlawful junkyard maintenance is intentional operation or maintenance of a junkyard in violation of article 22 of chapter 68 of Kansas Statutes Annotated, and amendments thereto. Unlawful junkyard maintenance is a class C misdemeanor. History: L. 1968, ch. 154, § 2; L. 1973, ch. 271, § 9; July 1.