

CHAPTER IX. HEALTH AND SANITATION

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ARTICLE 1. GENERAL

- 9-101 **HEALTH OFFICER; DUTIES.**
As used in this Article, the title "Health Officer" shall be deemed to mean and refer to the Director of the City and County Health Department. It shall be the duty of the Health Officer and his or her duly authorized representative to enforce the provisions of this Article. The Health Officer or his or her duly authorized representative shall have the authority to enter into and examine at all reasonable times, all buildings, tracts, lots, parcels of ground and places of all description within the City for the purpose of ascertaining the conditions thereof so far as the public health may be affected thereby. (Code 1979, 9-101)
- 9-102 **POLLUTION OF STREAMS.**
No person shall throw, place or deposit in any stream, creek, lake or pond within the city limits any matter or thing liable to impede, impair or pollute the water therein, or to build, place, throw or deposit on or along the banks thereof, any structure or any matter or thing of any description liable to decay and produce any noxious gases or effluvia calculated to pollute or obstruct any of such waters. (Code 1979, 9-102)
- 9-103 **STAGNANT WATER.**
No owner or occupant of any lot, tract or parcel of land within the city limits shall remove any earth or soil from such lot, tract or parcel of land so as to cause water to collect therein and become stagnant, unclean, offensive or injurious to the individual or public health. (Code 1979, 9-103)
- 9-104 **SLAUGHTERHOUSES AND PACKING HOUSES.**
No person shall keep or maintain a slaughterhouse or packing house within the city limits in such manner as to be injurious to the health of the inhabitants of the city or in an unclean and filthy condition. (Code 1979, 9-104)
- 9-105 **COMMERCIAL POULTRY HOUSES.**
No person owning or occupying any rooms, buildings or any place where fowl, birds or game are dressed, cleaned or kept alive or dead shall allow such rooms or buildings to become nauseous, filthy or unhealthful nor shall they neglect to thoroughly cleanse and purify the same at least every twenty-four (24) hours. All live poultry shall be kept within the building. (Code 1979, 9-105)

9-106 **DUMPING MANURE.**
No person shall dump any manure, except for fertilizing purposes, or other refuse matter on any public or private grounds within the jurisdiction of the Health Department of this City without first securing permission from the health department to do so. (Code 1979, 9-106)

9-107 **CESSPOOLS; SEPTIC TANKS.**

(A) No person shall use, construct or maintain any cesspool or septic tank for the reception of sewage, waste or offal, upon any premises owned or controlled by such person within the City. The City-County Health Officer may determine in each instance whether a septic tank may be installed as a temporary measure pending the construction of a sanitary sewer in the area. Said permit shall be granted only after it is determined by said Health Officer that the use of a septic tank on a temporary basis will not create a nuisance or health hazard in the neighborhood. It is further provided that the owners of a tract of land containing three (3) acres or more may appeal a negative decision from the Health Officer to the City Commission. The City Commission will not act until they have a recommendation from the Public Health Committee of the Lawrence-Douglas County Board of Health. The City Commission will make the final determination.

(B) Said septic tank system shall be designed and installed in accordance with the Lawrence-Douglas County Health Department's "Standards on Individual Septic Tank-Lateral Field Sewage Disposal Systems" now in effect or hereafter amended. Said system may be inspected by the Health Officer at any stage in construction. (Ord. 5218, Sec. 1)

9-108 **SPITTING.**
No person shall expectorate on or in any public building or upon the floor or any part of any public conveyance or upon any sidewalk abutting on any public street. (Code 1979, 9-108)

9-109 **DUMPING SEWAGE PROHIBITED.**
It shall be unlawful for any person, firm or corporation to cause or permit any sewage to be deposited, dumped, discharged or drained on the surface of the ground or about any public right-of-way or ditch within the City. For the purpose of this section, sewage is defined as any substance that contains any of the waste products or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry. Such definition shall include but not be limited to the discharge from laundry operations, both domestic and institutional. (Code 1979, 9-111)

ARTICLE 2. HEALTH NUISANCES

9-201 **NUISANCES DEFINED; PROHIBITED.**
It shall be unlawful for any person to permit, cause, keep or maintain any nuisance, or cause to be committed, caused, kept or maintained any nuisance within the City. Anything dangerous to human health, or anything that renders the ground, the water, the air or food hazardous or injurious to human health is hereby deemed and declared to be a nuisance. (Code 1979, 9-201)

9-202

WELLS, CISTERNS.

- (A) The Governing Body of the City of Lawrence finds open wells and cisterns to be a nuisance. It shall be unlawful for any person to allow any well or cistern located on the premises owned or occupied by him to be open or insecurely covered.
- (B) Any person found by the Health Officer to be in violation of this Section shall be sent notice of the violation by the Health Officer, requiring that he securely cover, fill up, or securely enclose the well or cistern. The notice shall specify a reasonable time during which the remedial actions are to be taken. The notice shall be sent by certified mail, postage prepaid, return receipt requested. (Code 1979, 9-202)

9-203

ABATEMENT OF NUISANCES; NOTICE; ASSESSMENT AND COLLECTION OF COSTS; PROCEDURE

- (A) The governing body of the City may have removed or abated from any lot or parcel of ground within the City any and all nuisances. The governing body may have drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the City, county or joint board of health or other agency as may be designated by the governing body of the City files with the city clerk its statement in writing that such nuisance or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of the City, or of any neighborhood, family or resident of the City. The governing body, by resolution, also may make such determination. (Ord. 7802)
- (B) Except as provided by subsection (C), the governing body shall order the owner or agent of the owner of the property to remove and abate from the property the thing or things therein described as a nuisance within a time, not exceeding 10 days, to be specified in the order. The governing body shall grant extensions of such ten-day time period if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance. The order shall state that before the expiration of the waiting period or any extension thereof, the recipient thereof may request a hearing before the governing body or its designated representative. 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. (Ord. 7802)
- (C) If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection. Except as specifically provided in this subsection, the governing body may provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Ord. 7802)

9-204

ABATEMENT: COLLECTION OF COSTS.

If the owner or agent fails to comply with the requirement of the order for a period longer than

that named in the order, the City shall proceed to have the things described in the order removed and abated from the lot or parcel of ground. If the City abates or removes the nuisance, the City shall give notice to the owner or agent by certified mail, return receipt requested, of the total cost of such abatement or removal incurred by the City, Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The City also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the thirty-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, 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 any applicable interest has been paid in full. (Ord.7802)

ARTICLE 2A. HEALTH NUISANCES; EMERGENCIES

9-2A01

FINDINGS.

The Governing Body of the City hereby makes the following findings:

That the release of hazardous materials into the environment is injurious to the public health, safety and welfare and is hereby found to constitute a nuisance;

That the City may incur substantial expense for emergency actions to mitigate injury to the public health, safety and welfare from the release or threatened release of hazardous materials; and

That such expenses should properly be born by those that profit from the activities that resulted in the release or threatened release of hazardous materials into the environment. (Ord. 6015)

9-2A02

SUPPLEMENTAL TO FIRE CODE.

This Article is supplemental to Section 80.104 of the Uniform Fire Code, and is to be interpreted in harmony with it. (Ord. 6015)

9-2A03

NUISANCES PROHIBITED.

The release or threatened release of hazardous materials into the environment in violation of Section 80.104 of the Uniform Fire Code is a nuisance. It shall be unlawful for any person to permit, cause, keep or maintain any such nuisance within the City. (Ord. 6015)

9-2A04

CIVIL ACTION.

(A) Any person responsible for a release or threatened release of hazardous materials into the environment which results in an emergency action shall be liable to the City for the City's recoverable expenses resulting from such action.

(B) The staffs of each City Department involved in an emergency action shall keep a detailed record of its recoverable expenses resulting from the emergency action. Promptly after completion of the emergency action, the staffs shall certify those expenses to the City Manager. The City Manager, or his or her designee, shall give

any and all persons responsible for the emergency action a written itemized claim for the total certified expenses incurred by the City for the emergency actions, and notice that if such claim is not paid in full within thirty (30) days, the City may initiate a civil action for the collection of the claim. Moneys recovered under this Article shall be credited to the appropriate funds of the City departments from which moneys were expended in performing the emergency.

- (C) The City Manager is hereby authorized to have an action brought on behalf of the City to recover any such claim which has not been paid within the specified thirty (30) days.
- (D) This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution or penalty. (Ord. 6015)

9-2A05

DEFINITIONS.

The following definitions shall apply in the interpretation of this Article:

- (A) Emergency Action shall mean all of the concerted activities conducted in order to prevent or mitigate injury to human health or the environment from a release or threatened release of any hazardous material into the environment.
- (B) Person shall mean any individual, corporation, association, partnership, firm, trustee, or legal representative.
- (C) Recoverable Expenses are all those expenses that are reasonable, and necessary for the emergency action, except as hereinafter provided. Recoverable expenses include, but are not limited to:
 - (1) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.
 - (2) Any additional compensation payment to employees, consultants and contracts for time and effort devoted to the emergency action beyond the usual compensation of City employees normally then on duty. (The usual compensation of employees normally then on duty is not intended to be a recoverable expense.)
 - (3) Rental or leasing of equipment used specifically for the emergency action.
 - (4) Replacement costs for City equipment that is contaminated beyond reuse or repair.
 - (5) Decontamination of equipment contaminated during the emergency action.
 - (6) Other special services specifically required for the emergency action.
 - (7) Any costs of cleanup, storage, or disposal of the released material.
 - (8) Costs associated with the services, supplies and equipment procured for a specific evacuation.
 - (9) Laboratory costs of analyzing samples taken during the emergency action.

- (10) Medical expenses incurred as a result of response activities.
- (11) Legal expenses that may be incurred as a result of the emergency action.
- (D) Threatened Release of Hazardous Material shall mean a condition which exists when a release of hazardous materials is likely to occur unless preventive measures are immediately taken to prevent such release.
- (E) Uniform Fire Code shall mean that certain fire prevention code and standards adopted as and amended by Article 2, Chapter VIII, of the Code of the City of Lawrence. (Ord.6015)

9-2A07

SAVINGS CLAUSE.

The Governing Body of the City hereby declares that if any section, paragraph, sentence or word of this Article be declared invalid for any reason, it is the intent of the Governing Body that it would have enacted all other portions of this Article independent of the elimination of any such portion as may be declared invalid. (Ord. 6015)

ARTICLE 3. ICE CREAM

9-301

STREET VENDORS; LICENSE REQUIRED.

No person shall sell or offer for sale any ice cream from any vehicle upon the streets of the City without securing from the City Clerk a license therefor. (Code 1979, 9-401)

9-302

LICENSE FEE; DURATION.

The fee for the license required by this Article shall be in the amount and payable as set forth in Section 6-108.11. Such license shall expire as set forth in such Section. (Code 1979, 9-402)

9-303

REVOCAION OF LICENSE.

If the Health Officer shall believe that any person holding a license required by Section 9-301 of this Article is not in good faith complying with all the provisions of this Article, he or she shall report the same to the Governing Body. If the Governing Body shall find upon hearing that such person is not in good faith complying with such provisions, it shall have the right to revoke such license. (Code 1979, 9-403)

9-304

SANITATION AND INSPECTION.

Any person having obtained a license so to do may sell ice cream from a vehicle upon the streets of this City, but shall be subject to inspection by the Health Officer. Every person engaging in such occupation shall carry his or her stock of ice cream in a tightly closed container which shall not be opened except for such length of time as is absolutely necessary to make the sale or sales from time to time. All containers and equipment used in such occupation shall be kept scrupulously clean, and every person making such sales shall be at all times be scrupulously clean. The Health Officer shall have the right to inspect all vehicles, containers and equipment used in connection with such business. (Code 1979, 9-404)

9-305

SELLERS OF ICE CREAM NOT TO BLOCK TRAFFIC.

No person selling ice cream from a vehicle shall permit such vehicle to stand upon the streets at any one place for more than five (5) minutes. (Code 1979, 9-405)

ARTICLE 4. COLLECTION, HAULING, DISPOSAL OF SOLID WASTE

9-401

REFUSE COLLECTION.

The City shall have the exclusive right to collect and dispose of refuse within the City limits and no other person shall collect and dispose of refuse within the City unless authorized by license or other formal agreement with the City. The City shall establish, maintain and conduct a service for the collection and disposal of refuse and shall purchase such equipment and engage such employees as may be needed, and shall pay such prices, salaries and wages as the City Commission may authorize for efficient operation of such service.

The collection, transportation and disposal of refuse shall be at all times under the general supervision of the City Manager or Director of Public Works as the Manager's duly authorized agent who shall have the authority to make additional rules and regulations not inconsistent with the terms and provisions of this Article. Exceptions to these rules must be approved by the Director of Public Works.

Nothing in this Article shall prohibit any person from transporting his or her own refuse, but intervals of disposal shall be not less than that prescribed for the refuse collection system of the City, and the disposal shall be in the same manner and place prescribed for the City system. Those persons transporting their own refuse shall not be relieved from the minimum charge imposed in accordance with Section 9-411. (Ord. 6061, Code 1984)

9-402

DEFINITIONS.

As used in this Article, the following words shall have the meanings respectively set out opposite them. (Ord. 7797)

- (A) Garbage includes all kitchen and table refuse and every accumulation of animal, vegetable and other material that attends the preparation, consumption, decay or dealing in or storage of meat, fish, fowl, birds, grain, fruits, vegetables or other types of foods of whatever character and shall include all animal and vegetable refuse from kitchens and all household wastes that shall have resulted from the preparation of food including tin cans and bottles. Dead animals, dishwater and wastewater are not included under garbage.
- (B) Refuse includes any and all accumulations of waste material, garbage, trash, rubbish, paper, packing material, pasteboard, cinders, metal and small tree limbs under five (5) inches in diameter when cut to a length of not to exceed five (5) feet and tied in bundles. The term refuse shall include waste products from the construction, remodeling, demolition, demolition or repair of any building, or resulting from any construction or building operation. The term refuse shall not include:
 - (1) Sod, dirt, sand, rocks, bricks, or other masonry unless packaged in accordance with Sections 9-403 and 9-405, or placed in roll-off containers designated for such purpose.
 - (2) Any item posing unusual risk of injury to personnel or damage to the collection vehicle.
 - (3) Tires, except as provided in Section 9-412.9.

- (4) Materials which have been set out for recycling.
- (5) Hazardous waste or non-regulated materials, such as motor oil, antifreeze, car batteries.

(C) Yard Waste includes leaves, grass, trimmings from lawn and flower gardens, and small twigs or sticks less than .5 inch in diameter.

9-403

PROVIDING CONTAINERS.

It shall be the duty of the owner or tenant residing in any single family residence and the owner of any multiple family residence, or of any business, commercial, industrial, institutional, or professional facility or establishment within the City of Lawrence, Kansas, to provide or cause to be provided, and at all times keep or cause to be kept, a portable container or containers adequate to contain the amount of refuse ordinarily accumulated at such place during the intervals between collections made by the City. (Ord. 7797)

9-403.1

Roll-out carts are available from the City for a monthly fee, as provided in 9-412.3(E). Other refuse containers shall be constructed of metal, plastic or other materials approved by the Director of Public Works, shall have a capacity of not more than thirty-five (35) gallons, shall be watertight, shall be provided with two (2) handles on the outside, provided with a tight-fitting cover, and maintained in a state of good repair. Disposable plastic bags of sufficient thickness and strength to avoid rupture and disposable paper bags which are manufactured specifically for refuse disposal may be used for refuse (only) by occupants of single family residences. Disposable bags must be not more than thirty-five (35) gallons in capacity, secured tightly, and leave sufficient material at the top for grasping by the collection crew. Ordinary paper bags such as grocery bags, shopping bags, or similar containers, collapsible, canvas, or similar containers are not authorized containers and will not be collected. Disposable bags are not permitted for multiple family residences or for accounts paying nonresidential rates unless facilities are provided to prevent scattering of refuse by animals, weather, traffic, or other causes. (Ord. 7797, Ord. 8284)

9-403.2

Cardboard boxes, paper boxes, pasteboard and fiberboard barrels and wicker baskets are not acceptable as reusable receptacles. These containers may be placed out for pick up and disposal but will not be returned for reuse. Such containers and their contents will be collected if the overall weight of container and contents together do not exceed sixty-five (65) pounds and the contents do not present a hazard to the collector. If, in the opinion of the collector, the container does not appear sturdy enough to permit loading without spilling the contents, it shall not be collected. Wheelbarrows and washtubs containing loose refuse will not be dumped. (Ord. 7797)

9-403.3

Acceptable containers for the collection of yard waste for residential accounts are limited to refuse cans (as detailed in 9-403.1), roll-out carts, or compostable kraft paper bags specifically designed for yard waste. Plastic bags are prohibited for packaging yard waste for separate collection. (Ord. 7797)

9-403.4

The customer will be responsible for clean-up of refuse scattered or spilled because of the nature or condition of the container or refuse and any refuse scattered or spilled by animals, wind or other causes before arrival of the collection crew. Customers using containers designed for mechanical dumping whose refuse is of a type susceptible to easy dispersal by the wind when the container is being dumped, or who permit the container to be overfilled, will be responsible for clean-up of any litter caused by wind scatter or by refuse falling from the container during the dumping operation. (Ord. 7797)

- 9-403.5 Containers with sharp or jagged items protruding above the top of the container shall not be collected. Collectors shall not dig compacted refuse from containers due to the risk of injury. Broken glass should be placed in a durable sealed package, prominently labeled so that the risk of injury can be recognized, and the package placed inside the container. (Ord. 7797)
- 9-403.6 Collection supervisors are authorized to confiscate any container not meeting the requirements of Section 9-403.1, any container or lid permitted to remain in a street or alley for more than twenty-four (24) hours after the last collection without prior approval by the Director of Public Works, and any container which is hazardous to the crew if the hazardous condition is not corrected after one warning tag has been issued. (Ord. 7797)
- 9-403.7 Refuse containers designed for mechanical dumping larger than thirty-five (35) gallons may be used if of a type that can be picked up by refuse collection equipment in use by the City. The customer shall be responsible for providing a container site which meets criteria established by the Director of Public Works, including provisions to ensure that the container cannot roll from its site because of wind or gravity, and the customer shall be responsible for providing safe access to the container site. Such access must be over a hard surface at least twelve (12) feet in width and free of all obstructions, including overhead obstructions to a height of fifteen (15) feet. Removal of vehicles, equipment, snow, ice, and any other obstructions preventing safe access to the container shall be the responsibility of the owner or occupant of the premises. The City shall not be held responsible for damage to or deterioration of privately owned parking lots or driveways resulting from the weight of the collection vehicle, or damage to utility lines, shrubbery, trees, or other growth extending into the prescribed property damage or injuries caused by the customers failure to provide safeguards adequate to prevent the container from rolling away from its designated site. (Ord. 7797)
- 9-403.8 Waste products from construction, remodeling, demolition, and repair of any building or resulting from any construction or building operation shall be placed in City-owned roll-off containers specifically designed for that purpose or be subject to other charges as outlined in 9-412.9 (D). (Ord. 7797)
- 9-404 **Reserved.**
- 9-405 **MAXIMUM WEIGHT.**
No manually collected refuse container when loaded shall weigh more than sixty-five (65) pounds, and no separate item or items of refuse manually collected shall weigh more than sixty-five (65) pounds, nor shall it be of such a size, volume or shape as to exceed what one person can reasonably be expected to lift and empty into a collection vehicle. The maximum weight for containers subject to mechanical pickup will vary with the type of collection equipment used. (Ord. 7797)
- 9-406 **YARD, SHRUB, OR TREE TRIMMINGS, GRASS, LEAVES.**
(A) Yard, shrub, or tree trimmings not bundled or placed in approved containers will not be collected. Bundles must be tied securely, shall not be more than eighteen (18) inches in diameter, not more than five (5) feet long nor more than sixty-five (65) pounds in weight. Yard, shrub, and tree trimmings placed in cans, bags, or roll-out carts are not to extend more than twelve (12) inches above the top of the can, bag or cart, or be so tightly packed that they must be pulled from the container by hand. (Ord. 7797)

- (B) Grass and leaves will be collected separately from other refuse. This separate collection will be on one day each week during the yard waste season as specified by the Director of Public Works. Restrictions as to size, type, and weight of containers area as specified in 9-403.3 and 9-405. (Ord. 7797)

9-407

PLACEMENT OF CONTAINERS FOR COLLECTION: DUTY TO REMOVE EMPTY RECEPTACLES FROM DESIGNATED COLLECTION POINT.

- (A) Unless another pickup point has been approved by the Director of Public Works, all portable containers containing refuse, upon days of collection thereof, shall be placed by the occupant outside of any existing yard fence and within six (6) feet of the alley in all blocks where alley pickup service is provided or within six (6) feet of the curb in those blocks in the City where curb pickup service is provided.
- (B) Collection at the door or other agreed location may be authorized by the Director of Public Works for hardship cases arising from physical impairment upon written application. Such special collection service shall be provided for a specified period, subject to renewal.
- (C) Containers shall be placed in a clearly accessible and uncluttered area to minimize risk of injury to the collector. Dogs tethered near refuse containers must be where they cannot interfere with the collection of refuse.
- (D) To ensure collection on the scheduled day, containers and other properly packaged refuse must be placed at the designated point of collection before 7:00 a.m. on the scheduled day of collection, but not earlier than 24 hours before that time. (Ord. 7388).
- (E) After collection, the crew shall return the trash receptacles to the spot where they were set out and the removable container lid shall be placed on the ground near the container. Containers and refuse left by the collection crew due to improper packaging must be removed from the curb as promptly as possible after the collection crew has departed, but not later than 24 hours after the collection crew has departed. The City shall not be responsible for the security of lids or containers after the collection crew has departed. (Ord. 7802)
- (F) The owner or occupant shall remove the trash receptacles from the designated collection point and/or the right-of-way within 24 hours of the trash pickup. Failure to comply with this section may result in the condition being declared an environmental code violation and subject to the enforcement measures set forth in Article 6 of this chapter. (Ord. 7802)

9-408

PROHIBITION AGAINST ACCUMULATIONS.

It shall be unlawful for the owner or occupant of any residence, institution, professional, commercial, or business establishment, or for contractors or builders engaged in construction or remodeling projects, to deposit or accumulate refuse in or upon any lot, parcel of land, public or private drive, alley, street or other place in the City. No person shall permit or allow any refuse to be scattered about in his or her yard or upon the premises occupied by him or her or to throw or deposit any refuse upon the premises of any other person or upon any of the streets, alleys or other public places in the City. (Code 1979, 9-508; Code 1984; Ord. 6061; Ord. 6385)

9-409

UNLAWFUL ACTS.

Unless authorized hereby to collect and dispose of refuse or to operate a service for the collection of material for recycling, it shall be unlawful for any person to: (Ord. 5649; Ord. 6061; Ord. 6385)

- (A) Remove any portion of the contents of any refuse container, or remove any material placed out by residents or occupants of any premise for collection by operators of recycling services authorized under the provisions of Article 9-416;
- (B) Upset, turn over, remove or carry away a refuse container or lid thereto, or to damage such container or lid in any manner;
- (C) Place or deposit refuse or any substance in a container other than his or her own, one which has been provided for his or her use, or a container provided and marked for public use;
- (D) Set out, or cause to be set out, refuse for collection that does not originate from the premises where it is set out unless specifically approved by the Director of Public Works in each case;
- (E) Place any material other than refuse, as defined in Section 9-402.b, in any City-owned container except with prior authorization by the Director of Public Works; or
- (F) Place refuse in any container in such a manner as to prevent proper closure of the container lid.

9-410

PROHIBITED MATERIALS.

- (A) Dangerous material such as hot ashes, radioactive materials, acids, caustics, diseased or infected materials, highly volatile materials, or explosives, shall not be collected.
- (B) Materials not defined as refuse in Section 9-402 shall not be collected.
- (C) Cold ashes, sawdust, sand, dirt, powdery material, small gravel or material whose particles are less than one (1) inch in diameter, herbicides, insecticides, other home and garden chemicals, animal manure, and litter box refuse shall not be collected unless sealed in a durable, disposable container prior to being placed out for collection.
- (D) Materials defined as hazardous or infectious by federal or state agencies shall not be collected by the City.
- (E) Large appliance or mattress cartons or other boxes larger than thirty (30) inches per side will not be collected by residential collection crews unless collapsed or otherwise reduced in size so that they will easily fit into the collection vehicle. (Ord. 6061; Ord. 6385)

9-411

COLLECTION CHARGES.

The City Commission may from time to time, by ordinance, prescribe charges for the service of collection and disposal of refuse. Such charges shall be paid to the City Finance

Department and shall be billed each month. The refuse collection charge shall be levied against every premise within the city limits which is receiving city water or sewer service and every occupied premise even though water or sewer service is not provided at the premises concerned, or when the water and/or sewer service is paid for by other parties. Should the charge for refuse collection become delinquent, the water service shall be discontinued under the terms as provided for failure to pay for such water service. Other appropriate legal means are authorized for delinquent accounts where water service is not provided. Recipients of bills for refuse charges which they believe to be erroneous must report the possible error to the City Finance Department's Utility Billing Office within thirty (30) days so that any required corrections may be made. The City Manager will make recommendations to the City Commission concerning refuse collection charges annually. (Code 1979, 9-512; Code 1984; Ord. 6061; Ord. 6385; Ord. 6837, Ord. 7388)

9-412

RATES AND SCHEDULES.

Until changed by ordinance, the following collection rates and schedules shall be effective:

9-412.1

For single-family dwellings, and for each family living unit in multiple-family dwellings not charged commercial container rates, \$14.94 per month. (the standard monthly solid waste service charge). In addition to the standard monthly solid waste service charge, single family dwellings, and each family living unit in multiple-family dwellings not charged commercial container rates, shall be assessed an additional fee for excessive amounts of refuse requiring one solid waste loader to expend more than five (5) minutes to load the refuse. The additional fee shall be established by the Director of Public Works. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644)

9-412.2

All other multiple-family dwellings, and all business, commercial, industrial, institutional or professional facilities or establishments are classified as commercial customers and shall be charged the commercial rate as follows: (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546)

- (A) The minimum commercial rate shall be \$21.74 per month, which allows the customer to have six (6) thirty-five (35) gallon approved containers or two (2) ninety (90) gallon poly-carts picked up once each week. The fee for any additional approved container will be \$3.35 per container per pick-up.
- (B) Commercial container rates include a rental and maintenance fee for the City-owned containers and a service charge for each pick-up or service call. This service charge is due for each service call even if the container cannot be emptied because the container is inaccessible or because the container has not been made ready for pick-up. Whenever the collection vehicle must wait for the customer to provide access or make the container ready for pick-up, a waiting-time charge of \$21.40 for each fifteen (15) minutes or fraction thereof will be levied.
- (C) In areas of the City where congestion and the lack of available space on-premises requires the use of commercial containers placed in or near alley rights-of-way or on public parking lots for the common use of business, professional, commercial, residential or other occupants of the block where the containers are located, charges shall be determined as follows:
 - (1) For buildings occupied by more than one business, apartment, institution, professional office, restaurant, club, or other enterprise, the rate shall be the sum of the rates for each individual occupant. The minimum rate for any

occupant shall be the current minimum commercial rate except for apartment units which shall be charged at the residential rate per unit.

- (2) The rate for individual occupants other than residential units will be established by square footage used or, as deemed appropriate by the Director of Public Works, in comparison with rates charged to users similar in nature and size in areas of the City where rates are more precisely determined by the level of service requested by the owners or operators concerned.
- (3) Charges for refuse collection service may be billed to the owner of the building or to the individual tenants at the option of the owner. Building owners choosing to have collection fees billed to the tenants must provide complete billing information to the City and provide timely notification of any tenant changes as they occur.
- (4) Charges which cannot be collected from the tenants either during their occupancy or after they vacate the premises will be billed to the building owner.
- (5) Building owners who are able to provide proper facilities for placing commercial containers on or near their premises for use solely by their tenants shall be billed at the container rate as set forth below.
- (6) Owners of shopping centers are responsible for the payment of refuse collection charges for all of the occupants of the shopping center unless they provide specifically designated sites for the placement of containers for each tenant and notify the City Solid Waste Division of the amount to be charged to each tenant if the sharing of containers is permitted or required by the shopping center owner.

9-412.3 **RATES.** (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644)

(A) The rates for one-ten (1-10) cubic yard refuse container rates are as follows:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month	Service Charge Uncompacted	Per Pickup Compacted	Special Pickup Service Charge*
1.0	\$ 19.19	\$ 7.19	\$ ----	\$ 38.30
2.0	24.94	11.42	22.85	40.80
3.0	29.00	15.36	30.86	43.40
4.0	32.30	19.39	38.76	45.80
6.0	41.73	26.11	52.22	50.80
8.0	48.47	32.78	65.53	55.80
10.0	59.27	40.70	80.55	60.80

* The Special Pick Up Service is \$38.30 base charge plus \$2.50 per cubic yard.

- (B) The rates for hook-lift refuse containers are as follows plus the landfill charge based on weight:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month	Service Charge Per Pickup
12.0	63.30	84.45
14.0	63.30	91.45
16.0	70.10	94.85
18.0	70.10	99.65

- (C) The rates for roll-off refuse containers (uncompacted) are as follows plus the landfill charge based on weight:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month	Service Charge Per Pickup (uncompacted)	
20.0	76.40	135.75	
21.0	76.40	139.00	
30.0	89.80	168.25	
35.0	89.80	184.80	
40.0	89.80	200.75	
OVER40.0	89.80	200.75	plus \$5.00 per cubic yard over 40

- (D) The rates for roll-off refuse containers (compacted) are as follows plus the landfill charge based on weight:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month	Service Charge Per Pickup
16.0	NA	\$ 175.70
17.0	NA	178.78
18.0	NA	180.70
20.0	NA	186.70
21.0	NA	189.70
25.0	NA	201.70
27.0	NA	207.70
30.0	NA	216.70
35.0	\$ 465.00	231.70
39.0	NA	246.70
40.0	NA	246.70

- (E) The monthly rental and maintenance charge for city-owned roll-out carts provide for semi-automated collection shall be \$2.00 per month for capacities over sixty-five (65) gallons and \$1.50 per month for capacities sixty-five (65) gallons or less. The fee per pickup for roll-out carts used by multi-family and non-residential accounts shall be \$3.26.

- (F) The service charges per pickup listed in 9-412.3(D) shall be increased by \$70.00 per

pickup for any roll-off container which must be off-loaded from the collection vehicle and reversed before it can be emptied.

9-412.4 **ADDITIONAL COMMERCIAL CONTAINER FEES.**

- (A) The rental and maintenance fee charged for any City-owned container rented for less than a month shall be one quarter (1/4) of the monthly fee for each week or portion thereof. (Ord. 7795)
- (B) Customers shall be charged a fee for the delivery of City-owned containers based on container size. For one (1) to ten (10) cubic yard containers the fee will be \$30.70. For containers larger than ten (10) cubic yards the fee will be \$49.00. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644)
- (C) A cleaning fee shall be charged for commercial customers requesting special container cleaning services due to the nature of their refuse. For containers up to ten (10) cubic yards in capacity the cleaning fee shall be \$38.30. For larger containers the fee will be \$73.90. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644)
- (D) Customers using City-owned containers over ten (10) cubic yards in capacity will be charged for a minimum of one (1) collection per month. (Ord. 7795)
- (E) Customers requesting collection of roll-off containers on Saturdays, Sundays, holidays, or at other times outside of regular City working hours will be billed an additional amount of \$65.00 to cover any added overtime and equipment costs. (Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644)
- (F) The rental and maintenance fee does not cover for other than routine maintenance. Damages from fires in or around the container will result in additional charges to cover labor and material for restoration of the container. (Ord. 7795)
- (G) Wheeled commercial containers which must be moved by hand by the collection crew shall be limited to no more than two hundred fifty (250) pounds per cubic yard. Heavier loads will be billed at twice the normal fee. (Ord. 7795)

9-412.5 **Reserved.**

9-412.6 **Reserved.**

9-412.7 **BULK PICK-UP.**

A fee schedule for certain types of residential bulk item waste may be established by the Director of Public Works. Residential bulk item waste means large items which cannot be collected with standard residential solid waste collection equipment during weekly scheduled routes, such as ranges, bed frames, washers, water heaters, refrigerators, air conditioners, large quantities of carpet, and similar items. Residential customers shall make arrangements in advance for bulk pick up service in accordance with procedures established by the Solid Waste Division (Ord. 7027, Ord. 8546).

9-412.8 **Reserved.**

9-412.9 **SPECIAL PICK-UPS.**

- (A) Unusual amounts of refuse which do not qualify for bulk pick-up service may be picked up if equipment and personnel are available, at the discretion of the Director of Public Works. (Ord. 7027)
- (B) Waste tires will be collected only as permitted by the State Department of Health and Environment. Collection of waste tires will be conducted in accordance with regulations established by the Director of Public Works. (Ord. 7027)
- (C) Chipper services may be provided for disposal of tree trimmings when equipment and labor are available, subject to limitations, fees, and other regulations established by the Director of Public Works. (Ord. 7027)
- (D) Fees for special pick-ups, tree chipping services, and waste tire collections shall be charged \$25.00 plus additional fees determined by the Director of Public Works based upon the time and equipment required to provide the service and in consideration of the disposal costs incurred. Fees may be collected in advance of the service at the discretion of the Director of Public Works. (Ord. 7027)

9-413 **CHARGES, LOW-INCOME ELDERLY PERSONS.**

The purpose of this Section is to permit qualified low-income elderly person to have reduced sanitation charges. A low-income elderly person is one who is sixty (60) years of age or more on or before the 1st day of January of the year in which the reduced service charge is applicable. To qualify for this low-income elderly person reduced sanitation service charge:

- (A) The individual shall have an income during the preceding calendar year from all sources of less than \$11,979 or
- (B) Any person who is the head of a family with a family income during the preceding calendar year from all sources of less than \$16,181;
- (C) The individual must meet the qualifications of this Section.

(Ord. 5021, Sec. 1; Ord. 6061; Ord. 6385; Ord. 6618; Ord. 6713; Ord. 6837; Ord. 6935; Ord. 7027; Ord. 7139, Ord. 7235, Ord. 7554, Ord. 7678, Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644)

9-414 **REDUCTION OF CHARGE.**

A low-income elderly person who applies for reduced dwelling unit sanitation service charge, and whose application is approved shall pay a flat rate monthly per dwelling unit of 35% of the regular monthly residential refuse charge. Applications for reduced sanitation user's charge shall be on forms supplied by the City, filed with or mailed to the City Clerk. All information required on such forms shall be supplied by the applicant. Applications made prior to the first of any month and approved shall be granted for the following billing month and through the balance of that year. All qualifying persons

must submit new applications annually to be eligible for the reduced rate through the next year. An individual may transfer this special rate status from one address to another unless such individual is disqualified by other circumstances. (Code 1979, 9-513.2; Ord. 6061; Ord. 6385 Ord. 6618)

9-415 **COLLECTIONS; REGULAR INTERVALS.**
The employees of the City shall make collections of refuse at such regular intervals as shall be prescribed by the Governing Body. (Code 1979, 9-514; Ord. 6061)

9-416 **RECYCLING OF WASTE MATERIAL.**
The City shall have the right to control and regulate recycling services within the City limits. No person shall operate a door-to-door service for the collection of recyclable material from residential, business, or other premises within the City unless authorized by license or other formal agreement with the City. Any person so licensed shall be required to comply with regulations established by the Director of Public Works. (Ord. 6061; Ord. 6155)

ARTICLE 5. FENCE AND SCREENING REQUIREMENTS FOR OPEN STORAGE

9-501 **PURPOSE.**
The purpose of this Article shall be to prevent community blight, to prohibit unauthorized persons physical access to the open storage of salvaged materials, salvaged motorized vehicles, used furniture or used appliances and to protect values of adjacent properties. (Code 1979, 9-601)

9-502 **REQUIREMENTS.**
From and after December 21, 1976, upon all property within the City of Lawrence, Kansas, any part of which is commercially or industrially used and which is adjacent to and within two hundred (200) feet of any property on which there is a residential use conforming to lawful zoning and upon the commercially or industrially used property there is an open storage of salvaged materials, salvaged motorized vehicles, used furniture or used appliances such open storage shall be enclosed by a fencing system which denies physical access to unauthorized persons and a screening system which obscures visibility from the adjacent residential uses. For the purpose of this Article, salvaged materials shall include used metals, wood, rope, rags, batteries, trash, rubber debris, or other used materials; and salvaged motorized vehicles shall include motor vehicle bodies or parts or accessories therefrom gathered together for the purpose of dismantling, storage for hire, offering for sale, trade or reuse or any motorized vehicle inoperable for a period of thirty (30) days or more. (Code 1979, 9-602)

9-503 **FENCING AND SCREENING; ALTERNATIVES.**
For the purpose of compliance with this Article, a fencing and screening system may include any of the following:

- (A) A solid fence of wood, masonry, or baked enamel metal which is not less than six (6) feet in height nor more than ten (10) feet in height; or
- (B) An open wire fence, which is not less than five (5) feet in height nor more than ten (10) feet in height, combined with trees, shrubs or other vegetation as approved by the City Superintendent of Parks and Forestry which would obscure the visibility of the stored materials, furniture, appliances or vehicles in a period of time not to

exceed five (5) years; or

- (C) Any other fencing or screening system which is approved by the Lawrence City Commission which effectively denies unauthorized access to and obscures visibility of the open storage area in use. Any of the above permitted fencing and screening alternatives may provide spaces through which the wind may travel without disturbing such fences or screens but ninety percent (90%) screening coverage must still be maintained and no such space may exceed three (3) inches in width. (Code 1979, 9-603)

9-504

MAINTENANCE.

All fencing and screening systems as required by this Article shall be maintained in a good and sufficient state of repair and maintenance as to continue to provide their fencing and screening functions and not create a safety hazard. (Code 1979, 9-605)

9-505

VARIANCES.

When the City Commission finds that the unique circumstances of the open storage of such materials does not necessitate the above fencing and screening requirements, they may waive any part of or the entirety of this Article by granting a variance. Prior to hearing such variances, application must be made in written form to the City Clerk. Each application must be accompanied by a current certified list, prepared by the County Clerk, of the names and mailing addresses of all property owners within two hundred (200) feet of the exterior boundaries of the property to be considered in the application. The City Clerk shall cause notice to be given by mail to all said property owners of record no less than fourteen (14) days prior to the date of variance consideration. If, at any time, the unique circumstances of the variance request should be altered, the City Commission shall revoke the granted variance. (Code 1979, 9-606)

ARTICLE 6. ENVIRONMENTAL CODE

9-601

TITLE.

This Article shall be known as the "Environmental Code." (Code 1979, 7A-101)

9-602

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, or welfare of the neighborhoods; to remove conditions which are detrimental to the structural integrity of our built environment including those conditions affecting adjoining property, the neighborhood or the City; and to provide for the administration and enforcement thereof. (Code 1979, 7A-102) (Ord. 7026)

9-603

RULES AND DEFINITIONS.

For the purposes of this Article, the following rules of construction and definitions shall apply:

9-603.1

Rules of Construction:

- (A) 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."

- (B) Gender - Words of gender shall be construed to mean neuter, feminine or masculine as may be applicable.
- (C) Number - Words of number shall be construed to mean singular or plural as may be applicable.
- (D) Tense - Words of tense shall be construed to mean present or future as may be applicable.
- (E) Shall - The words "shall" is mandatory and not permissive.

9-603.2

Definitions:

- (A) Abandoned Motor Vehicle shall mean any motor vehicle which is: (Ord.7802)
 1. Not currently registered or tagged pursuant to K.S.A. 8- 126 to 8-149 inclusive, as amended; or
 2. parked in violation of the Code, including in a location other than on an approved driveway as defined in this Section; or
 3. incapable of moving under its own power; or
 4. in a junked or wrecked condition, including but not limited to one having broken window(s), flat tire(s) or missing body part(s).
- (B) Accessory Structure shall mean a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns or outbuildings.
- (C) City shall mean the City of Lawrence, Kansas.
- (D) Code shall mean the Code of the City of Lawrence, Kansas.
- (E) Commercial or Industrial shall mean used or intended to be used primarily for other than residential purposes.
- (F) 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.
- (G) Driveway, approved shall mean an improved driveway surface that is constructed and maintained in accordance with City driveway requirements set forth in Chapter 16, Article 3 of the City Code, and amendments thereto and which directly accesses a street or alley. An isolated improved surface, such as a concrete pad or gravel pad, not directly connected to a street or alley is not an approved driveway for the purpose of parking vehicles. (Ord. 7802)
- (H) Driveway Surface (excluding the driveway apron) shall mean a

surface constructed of one of the following improved surfaces: (Ord. 7802)

1. Four (4) inches of reinforced Portland cement concrete;
 2. Five (5) inches of granular rock base with two (2) inches of asphaltic concrete
 3. Seven (7) inches of granular rock with a double asphaltic prime and seal;
 4. Five (5) inches of full depth asphaltic concrete
 5. Surface approved by the City Driveway Committee pursuant to Section 16-302 of the Code of the City of Lawrence, Kansas, and amendments thereto.
 6. Gravel, if the gravel surface has existed continuously since 1985. Gravel is not an approved driveway surface for new driveways or for expanding existing driveways constructed of asphalt or concrete. Existing asphalt or concrete driveways must be expanded with asphalt or concrete, not gravel.
- (I) Exterior shall mean 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.
- (J) Furniture, Outdoor shall mean weather-resistant furniture designed and manufactured for outdoor use. (Ord. 7802)
- (K) Garbage shall mean without limitation all kitchen and table refuse and every accumulation of animal, vegetable and other material that attends the preparation, consumption, decay or dealing in or storage of meat, fish, fowl, birds, grain, fruits, vegetables or other types of foods of whatever character, and shall include all animal and vegetable refuse from kitchens, and all household wastes that shall have resulted from the preparation of food including tin cans and bottles. Dead animals, dishwater and wastewater are not included under garbage. (Ord. 7802)
- (L) Governing Body shall mean the City Commission of the City of Lawrence, Kansas.
- (M) House Numbers shall mean those numbers assigned by the City identifying each building and dwelling. (Ord. 7802)
- (N) Community Development Advisory Committee shall mean the City board appointed by the Governing Body to conduct hearings pursuant to this article. (Ord. 8467)
- (O) Person shall mean 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.

- (P) Porch shall mean a structure adjoining an entrance to a building which is not fully enclosed by permanent walls and/or windows. (Ord. 7802)
- (Q) Premises shall mean any lot, plot or parcel of land including the structures thereon. The term shall also mean any lot, plot or parcel of land without any structures thereon.
- (R) Protective Treatment, Structural, shall mean paint or other protective application for exposed wood surfaces, other than decay-resistant wood surfaces, applied to prevent rotting and deterioration. (Ord. 7802)
- (S) Refuse shall mean any and all accumulations of waste material, garbage, trash, rubbish, paper, packing material, pasteboard, cinders, metal, and fallen or cut tree limbs. The term refuse shall include waste products from the construction, remodeling, demolition, or repair of any building, or resulting from any construction or building operation. (Ord. 7802, Ord. 8467)
- (T) Residential shall mean used or intended to be used primarily for human habitation.
- (U) Structure shall mean 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, but shall not include any driveway surface or anything located on the ground or attached to something located on the ground that has no roof and that has been designed for the parking of motor vehicles or is utilized in whole or in part for the parking of motor vehicles. (Ord. 8467)
- (V) Trash shall mean 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.
- (W) Trash Receptacles shall mean such watertight containers constructed of metal, plastic or other durable materials approved by the Director of Public Works, having a capacity of not more than thirty-five (35) gallons, two (2) handles on the outside, a tight-fitting cover, and maintained in a state of good repair. For single-family residences only, disposable plastic bags of sufficient thickness and strength to avoid rupture, secured tightly, may be used. Trash receptacles shall not include ordinary paper bags such as grocery bags, shopping bags, or similar containers, cardboard boxes, paper boxes, pasteboard and fiberboard barrels, or wicker baskets. Yard waste shall be placed in containers as approved by the Director of Public Works or as authorized by City Code. (Ord. 7802)

- (X) Weathered shall mean deterioration caused by exposure to the elements.
- (Y) Yard shall mean the area of the premises not occupied by any structure.

9-604 **PUBLIC OFFICER.**
The City Manager shall designate a public officer to be charged with the administration and enforcement of this Article. (Code 1979, 7A- 104)

9-605 **ENFORCEMENT STANDARDS.**
In determining whether a violation of this Article exists, the public officer, after a reasonable inquiry and inspection of the premises, shall consider whether conditions declared unlawful under this Article exist. Only those conditions that are readily visible from any public place or from any surrounding private property shall be considered in determining whether a violation exists. It shall be an affirmative defense to an enforcement action for a violation of Section 9-606.2, Exterior Conditions (Structure), that the conditions giving rise to the violation are of a quality and appearance commensurate with the conditions of immediately surrounding properties unless such conditions threaten the public's health, safety or welfare. (Code 1979, 7A-105) (Ord. 7026, Ord. 7802, Ord. 8467)

9-606 **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 the structural integrity of our built environment including those conditions affecting the 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:(Ord. 7026)

9-606.1 Exterior Conditions (Yard/Porches) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard and/or porches of any of the following: (Ord. 7026, Ord. 7802)

- (A) Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;
- (B) Abandoned motor vehicles; or
- (C) Furniture in the yard, other than outdoor furniture as defined in Section 9-603.2(J), stoves, refrigerators, televisions, sinks, or other such items of personal property.
- (D) Dead or substantially dead trees, (other than trees with Dutch Elm Disease which shall be governed by Chapter 18, Sections 18-113 through 18-118 of this Code, and amendments thereto), and dead or damaged tree limbs that create an unsafe condition, as determined by the City Parks and Recreation Director or his or her designee. (Ord. 8467)

9-606.2 Exterior Conditions (Structure) shall include, but not be limited to, deteriorated, dilapidated or dangerous: (Ord. 7026)

- (A) Exteriors of any structure;
- (B) Exteriors of any accessory structure; or
- (C) Fences, walls, or retaining walls.

9-606.3 Inconspicuous, Incorrect or Missing House Numbers shall include failing to affix the assigned numbers in a conspicuous place, so that such numbers may be clearly read from the street in accordance with Section 16-113 of the City Code. (Ord. 7802)

9-606.4 Trash and/or Trash containers shall include, but not be limited to: (Ord. 7802)

- (A) Failing to provide a trash receptacle, as defined in this Article, for containment of garbage, refuse or trash.
- (B) Failing to clean-up or remove garbage, refuse, or trash scattered or spilled caused by the nature or condition of the trash receptacle, animals, wind or other causes occurring before the arrival of the collection crew.
- (C) Placing trash receptacles in the right of way or at the designated point of collection earlier than 7:00 a.m. the day immediately preceding the scheduled day of collection.
- (D) Failing to remove trash receptacles and refuse left by the collection crew due to improper packaging from the collection point or right-of-way within 24 hours after the collection crew has departed.
- (E) Except when trash receptacles are lawfully placed for collection, storing trash receptacles in the area in front of the front building line of the principal building on the lot. (Ord. 8467)
- (F) Except when trash receptacles are lawfully placed for collection, storing trash receptacles in an exterior location that is more than three feet from an exterior wall of the principal building or accessory structure. (Ord. 8467)
- (G) Failing to properly secure trash receptacles that are left at the rear property line in locations where trash collection occurs in an alley. Trash receptacles at these locations shall be stored in a manner that reasonably prevents the scattering of the trash receptacles and any refuse contained within the receptacles. (Ord. 8467)

9-607 **NOTICE OF VIOLATION; AUTHORITY TO ISSUE NOTICE TO APPEAR FOR REPEAT VIOLATIONS.**

- A. Any person found by the public officer to be in violation of any provision of Sections 9-606 through 9-606.4 of this Article shall be sent a notice of such violation by the public officer as provided by this Article; provided that no notice of violation pursuant to this Article shall be required if the notice of violation is for a person who has already been served a notice of violation pursuant to this section within the preceding twenty-four (24) months. (Ord. 8280, Ord. 8467)

- (B) If no notice of violation is required under this section for a violation of Sections 9-606 through 9-606.4 of this Article personnel of the Planning and Development Services Department or the City Prosecutor's Office shall have the authority to issue the person a Notice to Appear in Municipal Court for such violation pursuant to the provisions of Charter Ordinance No. 31. (Ord. 8467)
- (C) The notice of violation shall be served in either of the following ways: (Ord. 8467)
 - (1) A copy of the notice of violation shall be conspicuously posted on the property where the violation is alleged to exist. In the case of property containing a structure, posting a door hanger on a main entrance to the structure shall be considered conspicuous posting. In addition, a copy of the notice of violation shall be mailed, postage prepaid, to such person at his or her last known address.
 - (2) A copy of the notice of violation may be mailed by certified mail, postage prepaid, return receipt requested to such person at his or her last known address.
- (D) The notice of violation shall state: (Ord. 8467)
 - (1) The condition that has caused the violation of this Article; and
 - (2) That the person in violation shall have the time periods listed below to alleviate the condition or conditions that have caused the violation of this Article. Only those time periods that apply to the types of violations actually present on the property in question need to be included in the notice of violation.
 - (a) Seven (7) days from the date of the service of the notice of violation to alleviate the exterior conditions (yard/porch) violation, for any portion of such a violation that consists of junk or refuse, and/or
 - (b) Fifteen (15) days from the date of the service of the notice to alleviate the exterior conditions (yard) violation, for any portion of the violation that does not consist of junk or refuse, and/or,
 - (c) Thirty (30) days from the date of the service of the notice to alleviate the exterior conditions (structure) violation.
 - (3) That the person in violation shall have seven (7) days from the date of the service of the notice of violation regarding any exterior conditions (yard/porch) violation that involves junk or refuse, and fifteen (15) days from the date of service of the notice for all other types of violations to request, as provided

in Section 9-611, a hearing before the Community Development Advisory Committee on the matter.

- (4) That failure to alleviate each condition or to request a hearing within the time period provided may result in prosecution under Section 9-608 of this Article, and/or, abatement of the condition by the City according to 9-609 of this Article, with the costs assessed against the person as provided by Section 9-613 of this Article.

9-608 **PENALTY.**

The public officer may file a complaint in the Municipal Court against any person found to be in violation of Sections 9-606 through 9-606.4 of this Article. Provided that such person shall first have been sent any notice as required by Section 9-607 of this Article, and that the person has not alleviated the conditions causing the alleged violation or requested a hearing before the Community Development Advisory Committee within the time periods specified in Section 9-607 of this Article. Upon such complaint in the Municipal Court, any person found to be in violation of Sections 9-606 through 9-606.4 of this Article, shall, upon conviction, be deemed guilty of a misdemeanor and be punished by a fine of not less than \$50, nor more than \$500, or by imprisonment, for not more than thirty (30) days, or by both such fine and imprisonment, for each offense. For the purposes of these provisions, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 1979, 7A-108) (Ord. 7026, Ord. 7802, Ord. 8467)

9-609 **ABATEMENT.**

In addition to, or as an alternative to, prosecution as provided in Section 9-608 of this Article, 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 9-607 of this Article has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Community Development Advisory Committee within the time periods specified in Section 9-607 of this Article, 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 twenty (20) days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the person in violation as provided in Section 9-613 of this Article. A copy of the resolution shall be served upon the person in violation in one of the following ways: (Ord. 7026, Ord. 8467)

- (A) Personal service upon the person in violation;
- (B) Service by certified mail, postage prepaid, return receipt requested; or
- (C) In the event the whereabouts of such persons 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 (2) consecutive weeks in the official City newspaper and by posting a copy of the resolution on the premises where such condition exists. (Code 1979, 7A-109)

9-610 **STORAGE AND DISPOSAL OF PROPERTY.**

Whenever the public officer is authorized to abate the conditions causing a violation,

as provided in Section 9-609 of this Article, the following procedures shall be observed:

- (A) Items confiscated which have not practical value to the person in violation shall be disposed of by the City;
- (B) Items confiscated which might reasonably be of some value to the person in violation shall be placed in storage by the city.

The persons in violation shall be informed by certified mail, postage prepaid, return receipt requested, of the disposition or storage of any items confiscated. In the case of items stored, the person in violation shall be further informed that such items shall be stored for a period of thirty (30) days, and further that those items may be claimed by said person upon payment to the City for expenses incurred, as provided in Section 9-613 of this Article. If the items are not claimed within the thirty (30) day period, then the City may sell the items and deduct its expenses, returning the amount in excess of expenses, if any, to the person. If the City removes and abates from property other than public property or property open to use by the public, a motor vehicle determined to be a nuisance, the disposition of such vehicle shall be in compliance with K.S.A. 12-1617e(e).

(Code 1979, 7A- 110, Ord. 7802)

9-611

HEARING BEFORE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE .

A hearing, if desired, must be requested within the appropriate time period as provided in Section 9-607 of this Article, and such request must be made in writing to the Community Development Advisory Committee. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the committee. The hearing shall be held by the Community Development Advisory Committee 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 Community Development Advisory Committee. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Community Development Advisory Committee shall record its determination of the matter and recommend to the Governing Body adopting a resolution and serving the resolution upon the person in the manner provided in Section 9-609 of this Article. (Code 1979, 7A-111) (Ord. 7026, Ord. 8467)

9-612

APPEALS.

Any person affected by any determination of the Governing Body under Sections 9-609 and 9-611 of this Article may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 1979, 7A-112)

9-613

EXPENSES.

All costs and expenses incurred by the City in carrying out the provisions of Sections 9-607, 9-609 and 9-610 of this Article may be charged to the person in violation and, in addition, if the person in violation is also the record owner of the property on which the violation exists, the expenses may be assessed against the person in violation in the manner provided in K.S.A. 12-6a17. (Code 1979, 7A-113, Ord. 7802)

9-614

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 charter or its ordinances or regulations, nor to prevent or punish violations thereof; and 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 1979, 7A-114)

9-615

AUTHORITY.

This Article is adopted by authority of and under the provisions of Article 12, Section 5(B) and (D) of the Kansas Constitution. (Code 1979, 7A-116)

ARTICLE 7. RADIOACTIVE MATERIALS

9-701

PURPOSE AND FINDINGS.

The purposes of the Article are:

- (A) To provide minimum standards and regulations ensuring the safe shipment and transportation of radioactive materials into, within, through, and out of the City of Lawrence.
- (B) To regulate the transport of radioactive waste through the City of Lawrence.
- (C) The Commission of the City of Lawrence finds that:
 - (1) The increasing production of radioactive wastes and other radioactive materials has led to increased transportation of these wastes and materials and to increased occurrences of transportation accidents involving the release of radioactivity to the environment.
 - (2) There is currently no monitoring of many of these shipments en route, by either Federal or State of Kansas officials and the federal capabilities for enforcement of compliance with federal safety regulations are inadequate unless supplemented by state or local action.
 - (3) There is, therefore, a significant threat to public health and safety and to the environment presented by the shipment of radioactive wastes and other radioactive materials into, within, through, and out of the City of Lawrence.
 - (4) The capability of emergency preparedness and response by the City of Lawrence to radioactive materials release, by accident or otherwise, where significantly hazardous quantities are involved, within the limits of the City of Lawrence is currently and foreseeably inadequate in terms of recovery cost, equipment, personnel and evacuation and, thus, the presence within the City of Lawrence of radioactive substances is an unacceptable risk to the health and safety of its residents. (Ord. 5344)

9-702

UNLAWFUL TO TRANSPORT RADIOACTIVE MATERIAL.

It shall be unlawful to transport within or through the City of Lawrence any of the following radioactive materials:

- (A) Plutonium isotopes in any quantity and form exceeding two (2) grams or twenty (20) curies, whichever is less;

- (B) Uranium enriched in the isotope U-235 exceeding twenty-five (25) atomic percent of the total uranium content in quantities where the U-235 content exceeds five (5) kilograms;
- (C) Any of the actinides (i.e., elements with atomic number 89 or greater) the activity of which exceeds twenty (20) curies;
- (D) Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds twenty (20) curies; or
- (E) Any quantity of radioactive material specified as a "Large Quantity" by the Nuclear Regulatory Commission in 10 CFR Part 71, entitled "Packaging of Radioactive Material for Transport." (Ord. 5344, Sec. 3)

9-703

EXCEPTIONS.

For the purposes of this Article, the term "radioactive material" shall not include:

- (A) Radiation sources defined by the Department of Transportation in 49 CFR Section 173.391 as being a "Limited Quantity."
- (B) Radiation sources used in radiography and other non-destructive testing procedures, when used by persons duly licensed by the State of Kansas;
- (C) Radiation sources shipped by or for the United States government for military or national defense purposes;
- (D) Teletherapy sources or radioactive materials employed in therapeutic and/or diagnostic radiology, in biomedical research or in educational endeavors, or medical devices designed for individual application (e.g., cardiac pacemakers) containing plutonium-238, promethium-147 or other radioactive material. (Ord. 5344, Sec. 4)

9-704

MONTHLY REPORT REQUIRED.

It shall be unlawful to transport radioactive material as defined in Section 9-703 in any quantity within or through the City of Lawrence without the transporter's reporting such shipments on a monthly basis to the Fire Chief or designate. Such reporting shall include at least the following information:

- (A) Identification of all radioactive elements contained in said shipment by name, atomic numbers and weight;
- (B) Identification of the radioactive level of each shipment, in curies;
- (C) Identification of the transportation route, date and approximate time of such transport into or out of the City of Lawrence;
- (D) Names, addresses, and telephone numbers of the persons, associations, partnerships or corporations acting as consignee, shipper, or transporter. (Ord. 5344, Sec. 2)

9-705

RESTRICTION ON DISCLOSURE.

Nothing in the Article shall be construed to require the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended. (Ord. 5344, Sec. 5)

9-706

PENALTY.

Any person violating any of the provisions of this ordinance shall upon conviction thereof, be punished as provided in Section 1-112 by a fine of not more than \$500 or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

ARTICLE 8. SMOKING IN PUBLIC PLACES

9-801

PURPOSE.

The purpose of this Article is to (1) improve and protect the public's health by eliminating smoking in public places and places of employment; (2) guarantee the right of nonsmokers to breathe smoke-free air; and (3) recognize that the need to breathe smoke-free air shall have priority over the choice to smoke. (Ord. 7782)

9-802

DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this section: (Ord. 8534)

- (A) Access point means the area within a ten foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted from the application of the restrictions of this Article by Section 9-807 of this code, and amendments thereto.
- (B) Bar means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on premises consumption.
- (C) Business means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
- (D) Employee means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
- (E) Employer means any person, partnership, corporation, association or organization, including municipal or non-profit entities, which employs one or more individual persons.
- (F) Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, or similar structures.

For purposes of this section, the following shall not be considered an "enclosed area":

- (1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and

- (2) Rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.
- (G) Food Service Establishment shall mean any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order café, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.
- (H) Gaming floor means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where the Class III gaming is conducted.
- (I) Licensed Premises shall mean any premises where alcoholic liquor or cereal malt beverages, or both, by the individual drink as defined by K.S.A. Chapter 41, and amendments thereto, is served or provided for consumption or use on the premises with or without charge. Such term shall include drinking establishments, Class A clubs, Class B clubs, and cereal malt beverage retailers, all as defined by K.S.A. Chapter 41, and amendments thereto, and this Code.
- (J) Medical care facility means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto.
- (K) Outdoor recreational facility means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.
- (L) Place of employment means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. A private residence is not a place of employment unless it is used as a day care, as defined in K.S.A. 65-530, adult day care or health care facility.
- (M) Private club means an outdoor recreational facility or other social, or recreational club operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.

- (N) Private Place means any enclosed area to which the public is not invited or in which the public is not permitted, including but not limited to, personal residences or personal motor vehicles. A privately owned business, open to the public, is not a “private place.”
- (O) Public building means any building owned or operated by:
- (1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof;
 - (2) Any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or
 - (3) Any other separate corporate instrumentality or unit of the state or any municipality.
- (P) Public meeting means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.
- (Q) Public place means any enclosed indoor areas open to the public or used by the general public including, but not limited to: Restaurants, banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, state, county or municipal public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a “public place” unless such residence is used as a day care, as defined in K.S.A. 65-530, adult day care or health care facility.
- (R) Service Line means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (S) Smoking means possession of a cigarette, cigar, or pipe partially or wholly consisting of or containing burning vegetation, or possession of any other device containing burning vegetation that is used for the introduction of smoke from the burning vegetation into the human body. For the purposes of this definition, the term vegetation includes, but is not limited to, tobacco, but does not include any controlled substance listed in K.S.A. 65-4105 through K.S.A. 65-4113 inclusive, and amendments thereto.
- (T) Sports Arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
- (U) Substantial dues or membership fee requirements means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade legal restrictions on smoking.
- (V) Tobacco Shop means a retail store operated primarily for the sale of tobacco, tobacco products and smoking devices and which derives not less than 65% of

its gross receipts from the sale of tobacco. A business shall not be considered a tobacco shop if:

- (1) Any of its gross receipts are derived from the sale of cereal malt beverages or alcoholic liquor, or it is located within or is a licensed premises.
- (2) It is located within another business, in whole or in part, that is not exempt from the provisions of this Article.
- (3) It has an entrance useable by the public that is located within a business that is not exempt from the provisions of this Article.
- (4) The mandatory purchase of any tobacco or tobacco product is required for admission into the business.

(W) Wall means a side of a room, building or structure connecting the floor and ceiling or foundation and roof, including temporary, moveable, and retractable sides.

9-803

PROHIBITION OF SMOKING IN PUBLIC PLACES.

It shall be unlawful for a person to smoke in any access point, public meeting, or any enclosed public place including, but not limited to, the following places: (Ord. 8534)

- (A) Restrooms, lobbies, reception areas, hallways, and any other common-use area in public and private buildings, condominiums and multiple residence facilities.
- (B) Buses, bus terminals, taxicabs, train stations, the airport, and other facilities and means of public transit under the authority of the City of Lawrence, as well as ticket, boarding, and waiting areas of public transit depots.
- (C) Service lines.
- (D) Retail stores.
- (E) All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including, but not limited to, attorneys' offices, and other offices, banks, laundromats, hotels, and motels.
- (F) Food service establishments, bars and other licensed premises, excluding areas that are not enclosed.
- (G) Galleries, libraries, museums, and grounds.
- (H) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance.
- (I) Sports arenas and convention halls, including bowling facilities.
- (J) Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
- (K) Lobbies, hallways, and other common areas in apartment buildings,

condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

(L) Polling places.

(M) Private clubs and fraternal organization facilities, including Class A and B clubs as defined in K.S.A. 41-2601, and amendments thereto.

(N) Gaming floors.

9-804

PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.

(Ord. 8534)

(A) It shall be unlawful for any person to smoke in any enclosed area that is a place of employment.

(B) It shall be the responsibility of employers to provide a smoke-free workplace for all employees.

(C) Each employer having any enclosed place of employment located within the City of Lawrence shall adopt, implement, make known and maintain, a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed areas.

(D) The smoking policy shall be communicated to all employees within one (1) week of its adoption and to all new employees upon hiring.

(E) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

9-805

ADDITIONAL DECLARATION OF NON-SMOKING ESTABLISHMENT.

Notwithstanding any other provision of this Article, any owner, operator, manager or other person who controls any establishment described in this Article may declare that entire establishment as a non-smoking establishment. (Ord. 7782)

9-806

APPLICATION OF ARTICLE TO CITY-OWNED FACILITIES.

All enclosed facilities owned by the City of Lawrence shall be non-smoking at all times notwithstanding other provisions of this Article. (Ord. 7782)

9-807

WHERE SMOKING IS NOT REGULATED: PRIVATE AND PUBLIC PLACES.

Notwithstanding any other provision of this Article to the contrary, the following areas shall not be subject to the smoking restrictions of this Article: (Ord. 8534)

(A) Private residences, except when used as a day care, as defined in K.S.A. 65-530, and amendments thereto, adult day care or health care facility;

(B) No more than twenty percent (20%) of hotel and motel rooms rented to guests.

(C) Tobacco shops, as defined in this Article.

- (D) Outdoor places of employment except:
 - 1. Access points; and
 - 2. Areas covered in Section 9-805 of this article,
- (E) Private places.

9-808

POSTING OF SIGNS.

- (A) The owner, manager or other person having control of a public place, place of employment, or other area where smoking is prohibited by this Article shall post or cause to be posted a conspicuous sign at each entrance to such area clearly stating that smoking is prohibited by law within the area. (Ord. 8534)
- (B) Such "No Smoking" signs shall display the international "No Smoking" symbol and all required text shall be rendered in bold lettering of not less than one (1) inch in height. The international "No Smoking" symbol consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. (Ord. 8534)

9-809

PUBLIC HEALTH EDUCATION: CITY-COUNTY HEALTH DEPARTMENT.

The Lawrence-Douglas County Health Department shall promote the purposes and requirements of this ordinance to the public affected by it, and guide owners, operators and managers in their compliance with it. Such promotion may include publication of a brochure for affected businesses and individuals explaining the provisions of this Article. (Ord. 7782)

9-810

ENFORCEMENT.

(Ord. 8534)

- (A) The Fire Chief or his or her designated agent shall be responsible for enforcing the provisions of this Article within the City, but nothing in this section shall be interpreted to prohibit any other person who would otherwise be lawfully entitled to enforce the provisions of this Article from taking enforcement action under this Article.
- (B) Notice of the provisions set forth in this Article shall be given to all applicants for a City retail liquor or drinking establishment license.
- (C) Any person may register a complaint under this Article to initiate enforcement with the Fire Chief.
- (D) The Lawrence-Douglas County Fire & Medical Department, the Lawrence Police Department, the Lawrence-Douglas County Health Department, and the Planning and Development Services Department shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance of this Article.
- (E) Any owner, manager, operator or employee of any premises regulated by this Article shall be responsible for informing persons violating this Article of its provisions through appropriate signage.

9-811

NON-RETALIATION.

No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee,

applicant or customer reports or attempts to prosecute a violation of any of the provisions of this Article. (Ord. 8534)

9-812

VIOLATIONS AND PENALTIES.

(Ord. 8534)

- (A) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place or other area where smoking is prohibited under this Article to fail to comply with any or all of its provisions.
- (B) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place or other area where smoking is prohibited under this Article to allow smoking to occur where prohibited by this Article. Any such person allows smoking to occur under this section if he or she:
 - 1. has knowledge that smoking is occurring, and;
 - 2. acquiesces to the smoking under the totality of the circumstances.
- (C) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Article.
- (D) Any person who violates any provision of this Article shall be guilty of an ordinance tobacco infraction, punishable by:
 - 1. A fine not exceeding One Hundred Dollars (\$100.00) for the first violation.
 - 2. A fine not exceeding Two Hundred Dollars (\$200.00) for a second violation within a one (1) year period of the first violation.
 - 3. A fine not exceeding Five Hundred Dollars (\$500.00) for a third or subsequent violation within a one (1) year period of the first violation.
 - 4. For the purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur. Violations of this Article and the Kansas Indoor Clean Air Act, K.S.A. 21-4009 *et. seq.*, and amendments thereto, shall both be considered prior violations for the purpose of this Article.
 - 5. Each individual allowed to smoke in violation of this Article by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited shall be considered a separate violation for purposes of determining the number of violations under this section.

9-813

OTHER APPLICABLE LAWS.

This Article shall not be interpreted nor construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 7782)

9-814

SEVERABILITY.

If any provision, clause, sentence or paragraph of this Article or the application

thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. (Ord. 7782, Ord. 8534)

ARTICLE 8A. TOBACCO PRODUCTS - PERSONS UNDER AGE 18

- 9-8A-101 **PURCHASE OF TOBACCO PRODUCTS, PERSON UNDER AGE 18.**
It shall be unlawful for any person who is under 18 years of age to purchase or to attempt to purchase cigarettes or tobacco products. (Ord. 7789)
- 9-8A-102 **POSSESSION OF TOBACCO PRODUCTS, PERSON UNDER AGE 18.**
It shall be unlawful for any person who is under 18 years of age to possess or to attempt to possess cigarettes or tobacco products. (Ord. 7789)
- 9-8A-103 **SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18.**
It shall be unlawful for any person to sell, furnish or distribute cigarettes or tobacco products to any person under 18 years of age. (Ord. 7789)
- 9-8A-104 **PENALTIES AND DEFENSES.**
- (A) Violation of Sections 9-8A-101 and 9-8A-102 is a cigarette or tobacco infraction for which the fine is \$25. In addition, the judge of the municipal court may require the juvenile to appear in court with a parent or legal guardian. (Ord. 7789)
 - (B) It is a class B person misdemeanor punishable by a minimum fine of \$200 for any person to (1) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or (2) to buy any cigarettes or tobacco products for any person under 18 years of age. (Ord. 7789)
 - (C) Any defense to prosecution provided under K.S.A. 79-3322, and amendments thereto, shall also be available under this Article. (Ord. 7789)

ARTICLE 9. STORMWATER POLLUTION PREVENTION

9-901 **GENERAL PROVISIONS.**

- (A) Purposes.

The purpose and objectives of this Article are as follows: (Ord. 7373)

1. To maintain and improve the quality of water impacted by the storm drainage system within the City of Lawrence.
2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Lawrence.
3. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.

4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.

5. To facilitate compliance with state and federal standards and permits by owners of construction sites within the City.

6. To enable the City to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for stormwater discharges.

(B) Administration.

Except as otherwise provided herein, the Director of Public Works shall administer, implement, and enforce the provisions of this Article. (Ord. 7373)

(C) Abbreviations.

The following abbreviations when used in this Article shall have the designated meanings: (Ord. 7373)

- BMP - Best Management Practices
- CFR - Code of Federal Regulations
- EPA - U.S. Environmental Protection Agency
- HHW - Household Hazardous Waste
- KDHE - Kansas Department of Health and Environment
- MS4 - Municipal Separate Storm Sewer System
- NPDES - National Pollutant Discharge Elimination System
- SWP3 - Stormwater Pollution Prevention Plan

(D) Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases as used in this Article, shall have the meanings hereinafter designated. (Ord. 7373)

Best Management Practices (BMP's) here refers to management practices and methods to control pollutants in stormwater. BMP's are of two types: "source controls" (nonstructural) and "treatment controls" (structural.) Source controls are practices that prevent pollution by reducing potential pollutants at their source, before they come into contact with stormwater. Treatment controls remove pollutants from stormwater. The selection, application and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMP's may be imposed by the City and are discussed further in Section 9-902 (E).

City means the City of Lawrence, Kansas.

Commercial means pertaining to any business, trade, industry, or other activity engaged in for profit.

Construction Site means any location where construction activity occurs.

Contaminated means containing harmful quantities of pollutants.

Contractor means any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

Director means the person appointed to the position of Public Works Director by the City Manager of the City of Lawrence, Kansas, or his or her duly authorized representative.

Discharge means any addition or release of any pollutant, stormwater or any other substance whatsoever into storm drainage system.

Discharger means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

Domestic Sewage means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

Earthwork means the disturbance of soils on a site associated with clearing, grading, or excavation activities.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

Fire Protection Water means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.

Garbage means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

Groundwater means any water residing below the surface of the ground or percolating into or out of the ground.

Harmful Quantity means the amount of any substance that the Director determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

Hazardous Substance means any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Household Hazardous Waste (HHW) means any material generated in a household (including single and multiple residences) that would be classified as hazardous pursuant to K.A.R. 28-29-23b.

Illegal Discharge see illicit discharge below.

Illicit Discharge means any discharge to the storm drainage system that is prohibited under this Article.

Illicit Connection means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.

Industrial Waste (or commercial waste) means any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.

Mechanical Fluid means any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

Mobile Commercial Cosmetic Cleaning (or mobile washing) means power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

Municipal Separate Storm Sewer System (MS4) means the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage.

NPDES means the National Pollutant Discharge Elimination System.

NPDES Permit means a permit issued by EPA that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Notice of Violation means a written notice detailing any violations of this Article and any action expected of the violators.

Oil means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

Owner means the person who owns a facility, part of a facility, or land.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest.

Pet Waste (or Animal Waste) means excrement and other waste from domestic animals.

Petroleum Product means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

Pollutant means any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Potable Water means water that has been treated to drinking water standards and is safe for human consumption.

Private Drainage System means all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

Public Improvement Plans means engineering drawings subject to approval by the City Engineer for the construction of public improvements.

Qualified Person means a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements & generally accepted industry standards for such activity.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish means non-putrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary Sewage means the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary Sewer means the system of pipes, conduits, and other conveyances which

carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Sediment means soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.

Septic Tank Waste means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

Shall means mandatory; may means discretionary.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Small Quantity Generator Waste means any hazardous waste generated by a small quantity generator as defined in K.A.R. 28-31-2.

Solid Waste means any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

State means The State of Kansas.

Storm Drainage System means all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

Stormwater means runoff resulting from precipitation.

Stormwater Pollution Prevention Plan (SWP3) means a document that describes the Best Management Practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

Subdivision Development includes activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon.

Surface Water means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

Uncontaminated means not containing harmful quantities of pollutants.

Used Oil (or Used Motor Oil) means any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

Utility Agency means private utility companies, City departments or contractors working for private utility companies or City departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Water of the State (or water) means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard means the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

9-902

PROHIBITIONS AND REQUIREMENTS.

(A) Prohibitions.
(Ord. 7373)

- (1) No *person* shall *release* or cause to be released into the *storm drainage system* any *discharge* that is not composed entirely of *uncontaminated stormwater*, except as allowed in Section 9-902(B). Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- (2) Notwithstanding the provisions of Section 9-902(B), any discharge shall be prohibited by this Section if the discharge in question has been determined by the Director to be a source of pollutants to the storm drainage system.

- (3) The construction, use, maintenance or continued existence of illicit connections to the storm drain system are prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
- (5) No person shall maliciously destroy or interfere with BMP's implemented pursuant to this Article.

(B) Exemptions.

The following non-stormwater discharges are deemed acceptable and not a violation of this Section: (Ord. 7373)

- (1) A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
- (2) Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
- (3) Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
- (4) Discharge from the occasional non-commercial washing of vehicles on properties zoned RS-1 or RS-2;
- (5) A discharge of swimming pool water in compliance with Ordinance 7094 and Chapter 19, Article 11 of the Lawrence City Code;
- (6) Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
- (7) Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;
- (8) Diverted stream flows and natural riparian habitat or wetland flows;
- (9) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

(C) Requirements Applicable to Certain Dischargers.
(Ord. 7373)

- (1) Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.

- (2) Minimization of Irrigation Runoff. A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
 - (3) Cleaning of Paved Surfaces Required. The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article. This section does not apply to pollutants discharged from construction activities, which are regulated by Section 9-903.
 - (4) Mobile commercial cosmetic cleaning operations shall not discharge to the storm drainage system in violation of this Article.
 - (5) Maintenance of Equipment. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
 - (6) Materials Storage. In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
 - (7) Pet Waste. Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
 - (8) Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
 - (9) Prohibition on Use of Pesticides and Fungicides Banned from Manufacture. Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any Federal, State or City regulation is prohibited.
 - (10) Open Drainage Channel Maintenance. Every person owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.
- (D) Release Reporting and Cleanup.

Any person responsible for a known or suspected release of materials which are resulting in or may result in illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. In the event of such a release of non-hazardous materials, said person shall notify the Director no later than 5:00 p.m. of the next business day. (Ord. 7373)

- (E) Authorization to Adopt and Impose Best Management Practices. The City may adopt and impose requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMP's are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMP's at their own expense. (Ord. 7373)

9-903

STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES.

- (A) General Requirements for Construction Sites.
(Ord. 7373)
- (1) The owner of a site of construction activity shall be responsible for compliance with the requirements of Section 9-903(A).
 - (2) Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be released from the site is prohibited.
 - (3) Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.
 - (4) Erosion and Sediment Control. Best Management Practices shall be implemented to prevent the release of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern.
 - (5) Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of Section 9-903(A), in the course of maintenance, reconstruction or any other construction activity on the site.
- (B) Construction Sites Requiring an Approved SWP3.
This section applies to all construction sites excluding subdivision

developments. Where construction on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project, an approved Stormwater Pollution Prevention Plan (SWP3) for the project must be provided and implemented by the construction site owner as follows: (Ord. 7373)

- (1) The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.
- (2) The SWP3 must be provided by the owner and submitted to the City for approval. Two copies of the SWP3 shall be submitted to the Department of Public Works, Stormwater Engineer. For sites subject to plan review by the Planning Office, the plan will not be released for construction until an approved SWP3 has been obtained.
- (3) The preparation and implementation of the SWP3 must comply with Section 9-903(D).
- (4) The Director will review the SWP3 submitted for the site and will return either a letter of SWP3 approval or a request for revisions within 14 days of submission of the SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the Director has issued a letter of SWP3 approval.
- (5) The owner bears the responsibility for implementation of the SWP3 and notification of all contractors and utility agencies on the site.

(C) Subdivision Developments Requiring an Approved SWP3.
Where construction of a subdivision development will disturb soil or remove vegetation on one (1) or more acres of land during the life of the development project, approved Stormwater Pollution Prevention Plans (SWP3's) for the project must be provided and implemented by the subdivision owner as follows: (Ord. 7373)

- (1) The area disturbed shall be assumed to include the entire platted area.
- (2) SWP3's must be provided by the subdivision owner and included in Public Improvement Plans submitted to the City Engineer for the development.
- (3) The preparation and implementation of all SWP3's must comply with Section 9-903(D).
- (4) SWP3's must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading and the construction of individual homes. The subdivision owner will not be required to provide an SWP3 for the activities of utility agencies within the subdivision. Utility construction is addressed in Section 9-903(E).

- (5) Approval of Public Improvement Plans by the City Engineer will constitute approval by the Director of the included SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence until the Public Improvement Plans are approved for the development.
- (6) The subdivision owner shall provide a copy of the approved SWP3's to all utility agencies prior to their working within the subdivision.
- (7) The subdivision owner bears the responsibility for implementation of the approved SWP3's for all construction activity within the development, excluding construction under the control of subsequent owners of individual lots and construction managed by utility agencies.
- (8) The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3's for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

(D) Stormwater Pollution Prevention Plans.
Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following: (Ord. 7373)

Preparation

- (1) The SWP3 shall be prepared under the direction of a qualified person, as defined in 9-901 (D).
- (2) The SWP3 shall provide the name, address and phone number of the project owner for purposes of correspondence and enforcement.
- (3) The SWP3 shall identify existing natural resources such as streams, forest cover and other established vegetative cover.
- (4) The SWP3 shall specify and provide detail for all BMP's necessary to meet the requirements of this Article, including any applicable BMP's that have been adopted and imposed by the City.
- (5) The SWP3 shall specify when each BMP will be installed, and for how long it will be maintained within the construction sequence. Multiple plans may be required for major phases of construction such as rough grading, building construction and final grading.
- (6) The SWP3 shall delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.

Implementation

- (7) BMP's shall be installed and maintained by qualified persons. The owner or their representative shall be able to provide upon the Director's request a copy of the SWP3 on site within one hour

during construction activity, or within the next business day for periods of inactivity, and shall be prepared to respond to unforeseen maintenance of specific BMP's.

- (8) The owner or their representative shall inspect all BMP's at least once per month and within the next business day after a rainfall of one quarter of an inch or more as measured at the site or generally reported in the Lawrence area.
- (9) Based on inspections performed by the owner or by authorized City personnel, modifications to the SWP3 will be necessary if at any time the specified BMP's do not meet the objectives of this Article. In this case, the owner shall meet with authorized City personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, and shall be recorded on the owner's copy of the SWP3.

(E) Requirements for Utility Construction.
(Ord. 7373)

- (1) Utility agencies shall be responsible for compliance with the requirements of Section 9-903(E).
- (2) Utility agencies shall develop and implement Best Management Practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMP's on utility construction activity.
- (3) Utility agencies shall implement BMP's to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern.
- (4) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWP3's for the project. Any disturbance to BMP's resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWP3.

9-904

ENFORCEMENT.

- (A) Submissions from the General Public.
Members of the General Public may submit information pertaining to this Article to the City of Lawrence, Department of Public Works. The Director will consider such submissions as they pertain to the implementation and enforcement of this Article and will provide written or verbal response to the person submitting the information. (Ord. 7373)
- (B) Enforcement Personnel Authorized.
The following personnel employed by the City shall have the power to issue Notices of Violations and implement other enforcement actions under this Article as provided by Charter Ordinance No. 31 of the City of Lawrence:

(Ord. 7373)

- (1) All authorized personnel under the supervision of the Director of Public Works.
- (2) All inspectors under the supervision of the Director of Neighborhood Resources.
- (3) All health officers that are authorized representatives of the Director of the Lawrence – Douglas County Health Department.

(C) Right of Entry and Sampling.
(Ord. 7373)

- (1) Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the Director shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this article. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
- (2) The Director shall have the right to set up on the property of any discharger to the storm drainage system such devices that are necessary to conduct sampling of discharges.

(D) Notice of Violation.
(Ord. 7373)

- (1) Whenever an authorized enforcement person determines that a person has violated a prohibition or failed to meet a requirement of this Article, the enforcement person will order compliance by written Notice of Violation to the responsible person.
- (2) The Notice of Violation shall identify:
 - (a) The name of the responsible person
 - (b) The date and location of the violation
 - (c) A description of the violation
 - (d) Actions that must be taken by the responsible person to remedy the violation
 - (e) The deadline within which the required actions must be completed
 - (f) Enforcement actions that may be taken by the City
- (3) Any person receiving a Notice of Violation may appeal the Notice to the Director. The written appeal must be received by the Director within 15 days of the Notice date. The Director will affirm, modify or

rescind the Notice in writing, within 15 days of the date of the appeal.

- (4) Any person aggrieved by the decision of the Director may appeal the decision to the City Commission by submitting a written appeal to the City Manager's Office within 15 days of the date of the Director's written decision. A hearing on the appeal will be scheduled before the City Commission. The decision of the City Commission shall be final.

(E) Action without Prior Notice.

Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one or more of the enforcement actions identified in 9-904 (F), when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge which presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system. (Ord. 7373)

(F) Enforcement Actions.

Any person who fails to comply with or appeal a Notice of Violation, or fails to comply with an appeal decision of the City Commission, will be subject to one or more of the following enforcement actions: (Ord. 7373)

- (1) Stop Work Order. The Director may issue a Stop Work Order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all City departments whose decisions may affect any activity at the site. Unless express written exception is made, the Stop Work Order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site. A Notice of Violation shall accompany the Stop Work Order, and shall define the compliance requirements.
- (2) Abatement of an Illicit Connection. The Director may order City representatives to terminate an illicit connection to the MS4. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.
- (3) Abatement of a Violation on Private Property. When a property owner is not available, not able or not willing to correct a violation, the Director may order City representatives to enter private property to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.
- (4) Recovery of Costs. Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the City Commission. The written protest must

be received by the City Manager's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Commission. The decision of the City Commission shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the City Commission, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

- (5) Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order the disconnection of City water, sanitary sewer and/or sanitation services, upon a finding by the Director that the disconnection of utility services will remove a violation of this Article that poses a public health hazard or environmental hazard.
 - (6) Performance Bonds. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the City Commission. The written protest must be received by the City Manager's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Commission. The decision of the City Commission shall be final.
 - (7) Criminal Prosecution. Any person who violates or continues to violate a prohibition or requirement of this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.
- (G) Criminal Penalties.
The violation of any provision of this Article shall be deemed a municipal offense. Any person violating this Article shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of \$250.00 to a maximum of \$1,500.00. Each separate day on which a violation is committed or continues shall constitute a separate offense. The municipal court judge shall have no authority to suspend all or a portion of the minimum fine. (Ord. 7373)
- (H) Other Legal Action.
Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this Article, the City Attorney may commence

an action for appropriate legal and equitable relief including damages and costs in the District Court of Douglas County. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger. (Ord. 7373)

9-905

IMPLEMENTATION.

- (A) SWP3 Requirements Effective.
The requirements of 9-903 (B) and 9-903 (C) shall be effective as follows:
(Ord. 7373)
- (1) Prior to September 1, 2001: These sections are not effective and do not apply to any construction projects.
 - (2) On or after September 1, 2001 and prior to March 10, 2003: These sections are effective with the exception that they apply only to sites and developments where construction will disturb soil or remove vegetation on five (5) or more acres of land during the life of the project, including projects started prior to this period.
 - (3) On or after March 10, 2003: These sections are fully effective and apply to projects started prior to this date.

9-906

SEVERABILITY.

If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect. (Ord. 7373)

ARTICLE 10. PORTABLE TOILETS

9-1001

DEFINTIONS. For the purposes of this Article the following terms have the following definitions: (Ord. 8560)

- (A) "Person" shall mean 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.
- (B) "Portable toilets" means one or more commercially manufactured or assembled toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection. Portable toilets shall include, but not be limited to, water flush toilets or chemical toilets that have a water tight, impervious pail or tank containing a chemical solution placed immediately beneath the seat or urinal and a pipe or conduit connecting the riser with the tank.
- (C) "Site" means any property or properties, consisting of one or more lots, whether developed or undeveloped that make up an individual location. Examples of a site include but are not limited to a parking lot or lots, a business location consisting of one or more buildings, and a residential property consisting of one or more lots.
- (D) "Use" means the presence of one or more portable toilets on a site which

are intended for use, even if not actually being used. This would include periods when the toilets are on site but not accessible for security or maintenance periods. The storage of portable toilets at a commercial facility or business that is in the business of providing and servicing portable toilets is not considered a use under this Article.

9-1002

USES.

(Ord. 8560)

- (A) Nothing in this Article shall prohibit any use of portable toilets contained within a recreational vehicle or required by federal, state or local law.
- (B) Unless otherwise authorized by federal, state or local law, it shall be unlawful to use portable toilets on single or multi-dwelling residentially zoned property except as provided for herein.
 - 1. The use of portable toilets shall be allowed in the following circumstances and subject to the following limitations:
 - a. On all City, County, School District, University or State owned property.
 - b. On all property granted a City Temporary Special Event or Right-of-Way Permit.
 - c. On all property for a period beginning one day before each scheduled University of Kansas football game held at Memorial Stadium and ending on the Monday immediately following the scheduled football game. If the football games held at Memorial Stadium are scheduled on consecutive weekends, then portable toilets shall be allowed to remain until the Monday immediately following the last consecutive scheduled football game. All portable toilets shall be removed no later than the Monday immediately following the scheduled football game.
 - d. On property with construction projects subject to Planning and Development Services development reviews or permits that:
 - i. Do not have existing on-site sanitary sewer facilities; and
 - ii. Have written proof of a service contract with a disposal contractor;
 - e. On the camp property of Lawrence Hidden Valley Committee Incorporated commonly known as 3420 Bob Billings Parkway, Lawrence, Douglas County, Kansas.
 - f. In addition to that granted in 9-1002(B)(1)(c) above, portable toilets are permitted on all property used for residential uses, as defined by the Land Development Code, for up to four consecutive days and only two times per calendar year. Requests for the use of portable toilets beyond the duration established in this subsection may only be granted by the Director of Planning and Development Services or designee where the Director or designee finds that the

criteria of this Article are upheld. Appeals of the Director's decision may be made to the City Commission.

- g. On property with approved nonresidential use(s) as defined by the Land Development Code.

9-1003

MAINTENANCE REQUIREMENTS.

(Ord. 8560)

- (A) It is the responsibility of the person responsible for the site where portable toilets are located to ensure compliance with the maintenance requirements in this section. For Temporary Special Events that obtain a permit from the city, it is the event coordinator's responsibility to ensure compliance with the maintenance requirements in this section.
- (B) The following maintenance requirements shall apply to all uses of portable toilets:
 - 1. Portable toilets must be in good working condition without any broken surfaces or leaks. Doors must be in good working condition and must be able to be securely latched while in use. The toilet(s) must be monitored and/or permanently secured from use when not in active use. The toilet(s) shall be serviced by a disposal contractor that shall provide periodic inspections and pump outs as necessary and must be immediately serviced by a disposal contractor if the holding tank becomes full during the period of use.
 - 2. For all uses, in addition to the other requirements of this section, the following shall apply to the use of portable toilets. Portable toilet(s) shall be located on the site so as to be free from obstruction from, nor present an obstruction to, existing structures or driveways. The toilet(s) shall be located in such a manner as to not be potentially impacted by site conditions such as slopes, ditches, or prevailing winds. Portable toilet(s) shall be located to provide the maximum practical screening from roads and adjacent properties as the site allows.
 - 3. It is the person's/event operator's responsibility to ensure that toilet(s) are not used in a dangerous or inappropriate manner, especially by children. This may be accomplished by monitoring or securing the toilet(s) from use during periods of inactivity, such as night time and weekend hours, or by other effective means as appropriate.

9-1004

UNLAWFUL ACTS, PENALTY.

It shall be unlawful for any person to violate any requirement of this Article. In the event that a violation of this Article would also be a violation of another provision of the City Code, the violation shall be punished as would a violation of such other provision. All other violations shall be punished by a fine not to exceed \$500 or incarceration not to exceed 30 days or both such fine and incarceration. Each day or portion thereof that a violation remains uncorrected after receiving notice of the violation from the City constitutes a separate violation of this Article. (Ord. 8560)

9-1005

NOTICE OF VIOLATION.

(Ord. 8560)

- (A) The building official is authorized to serve a notice of violation or order on the person responsible for the violation of the provisions of this Article. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
- (B) The notice of violation shall be served in either of the following ways:
 - 1. A copy of the notice of violation shall be conspicuously posted on the property where the violation is alleged to exist. In the case of property containing a structure, posting a door hanger on a main entrance to the structure shall be considered conspicuous posting. In addition, a copy of the notice of violation shall be mailed, postage prepaid, to such person at his or her last known address.
 - 2. A copy of the notice of violation may be mailed by certified mail, postage prepaid, return receipt requested to such person at his or her last known address.
- (C) The notice of violation shall state:
 - 1. The condition that has caused the violation of this Article; and
 - 2. That the person in violation shall have Two (2) days from the date of the service of the notice of violation to alleviate the violation.
 - 3. That failure to alleviate each condition within the time period provided may result in prosecution under this Article, and/or, abatement of the condition by the City according to Chapter IX, Article 2, Section 9-203 and amendments thereto, with the costs assessed against the person according to Chapter IX, Article 2, Section 9-204 and amendments thereto.

9-1006

PROSECUTION OF VIOLATION.

If the notice of violation is not complied with in accordance with 9-1005, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Article or of the order or direction made pursuant thereto. (Ord. 8560)

9-1007

AUTHORITY TO ISSUE NOTICE TO APPEAR.

Pursuant to the authority of Charter Ordinance No. 31, the inspector personnel of the Planning and Development Services Department are hereby authorized to issue Notice to Appear citations for alleged violations of the provisions of Chapters IX, Article 10 of the Code of the City of Lawrence, Kansas, and amendments thereto. (Ord. 8560)

9-1008

SEVERABILITY.

If any section, clause, sentence, or phrase of this article is found to be

unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8560)