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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:

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(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

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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) Neighborhood Resources Advisory Committee shall mean the City board appointed by the Governing Body to conduct hearings pursuant

to this article.

(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)

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 CODE OF THE CITY OF LAWRENCE, KANSAS

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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, 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, or repair of any building, or resulting from any construction or building operation. The term refuse shall not include: (Ord. 7802)

(1) Sod, dirt, sand, rocks, bricks or other masonry unless packaged in accordance with Sections 9-403 and 9-405 of the City Code, and amendments thereto, 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 of the City Code, and amendments thereto.

(4) Materials which have been set out for recycling.

(5) Hazardous waste or non-regulated materials, such as motor oil, antifreeze, car batteries

(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.

(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)

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(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.

No person shall be found in violation of this Article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the immediately surrounding properties. Such evidence shall include conditions declared unlawful under Section 9-606 of this Article, but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 1979, 7A-105) (Ord. 7026, Ord. 7802)

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), as determined by the City Parks and Recreation Director or his or her designee,

- 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

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(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)

- 6-606.4 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-ofway within 24 hours after the collection crew has departed.

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

Any person found by the public officer to be in violation of Sections 9-606 through Section 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 violation notice pursuant to this Article shall be required if the violation notice is for the same person within the preceding twenty-four (24) months, in which case personnel of the Planning and Development Services Department or the City Prosecutor's Office shall have the authority to issue a Notice to Appear in Municipal Court pursuant to the provisions of Charter Ordinance No. 31. The notice of violation requirements of this Section 9-607 shall not apply to violations for which a Notice to Appear has been issued. (Ord. 8280)

The notice of violation shall be served as follows:

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.

A copy of the Notice of Violation shall be mailed, postage prepaid, to such person at his or her last known address.

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8280

The notice of violation shall state:

(A) The condition which has caused the violation of this Article; and

(B) That the person in violation shall have:

(1) Seven (7) days from the date of the service of the notice of violation to alleviate the exterior conditions (yard) violation, for any portion of such a violation that consists of junk or refuse, and/or

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(2) 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,

(3) Thirty (30) days from the date of the service of the notice to alleviate the exterior conditions (structure) violation, or as an alternative to (1) and/or (2) above,

(4) Seven (7) days from the date of the service of the notice of violation to alleviate any exterior conditions (yard) 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 Neighborhood Resources Advisory Committee on the matter;

(C) That failure to alleviate the condition or to request a hearing 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 under 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 however, that such person shall first have been sent a notice as provided in Section 9-607 of this Article, and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Neighborhood Resources 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)

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 Neighbor Resources Advisory Committee within the time periods specified in Section 9-607 of this Article, the

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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)

(A) Personal service upon the person in violation;

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(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 NEIGHBORHOOD RESOURCES ADVISORY COMMITTEE .

If a hearing is requested within the fifteen (15) day period as provided in Section 9-607 of this Article, such request shall be made in writing to the Neighborhood Resources 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 Neighborhood Resources 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 Neighborhood Resources Advisory Committee. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Neighborhood Resources 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)

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

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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)