

CHAPTER 8
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Article I. In General.

Sec. 8-101 Right of entry of sanitation inspector and milk inspector generally.

The sanitation inspector and milk inspector and their respective duly authorized representatives shall have the authority to enter into and examine at all reasonable times, all buildings, tracts, lots, parcels of ground and places of all descriptions within the city for the purpose of ascertaining the conditions thereof insofar as the public health may be affected thereby. (*Ord. 3315, Adop. 3/08/1949*)

Sec. 8-102 Pollution of streams generally.

a. No person shall throw, place or deposit in any stream, creek, lake or pond within the city any matter or thing liable to 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 any of such water.

b. No person shall throw, place, build or deposit in any stream, creek, lake or pond within the city any matter or thing which may impede, impair or obstruct such waters in such a manner as may cause such waters to become polluted.

Sec. 8-103 Leaving holes for stagnant water.

No owner or occupant of any lot, tract or parcel of land within the city 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.

Sec. 8-104 Slaughterhouses and packing houses.

It shall be unlawful for any person to keep or maintain a slaughterhouse or packing house within the city in such manner as to be injurious to the health of the inhabitants of the city or in an unclean and filthy condition.

Sec. 8-105 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 unwholesome, nor shall they neglect to thoroughly cleanse and sanitize the same at least every twenty-four hours. All live poultry shall be kept within the building.

Article II. Nuisances.

Sec. 8-201 Nuisance defined.

Whatever is dangerous to human health, whatever renders the ground, the water, the air or food a hazard or an injury to human health and, each of the following specified acts, conditions and things is hereby declared to constitute a nuisance, provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- a. The accumulation of garbage, rubbish, trash, refuse or other materials that may provide harborage for rats, mice, snakes or other vermin;
- b. The accumulation of water in stagnant ponds;
- c. Any building, structure or other place where any activity which is in violation of local, state or federal law is habitually conducted, performed or maintained;
- d. The disposal of human or animal waste in any manner inconsistent with the City Code; and
- e. The deposit or accumulation of any offensive matter in or upon any lot, street, highway or public place.

f. The maintenance of hazardous sidewalk conditions, which may include an uneven sidewalk which contains a tripping hazard, a cracked and/or crumbling sidewalk making the walking surface unstable, missing portions of sidewalk, or a damaged sidewalk. (*Ord. 2006-19, Adop. 6/20/2006; Ord. 7513, Adop. 7/30/1996*)

Sec. 8-202 Creation and maintenance of nuisance prohibited.

It shall be unlawful for any person to permit, cause, keep or maintain any nuisance, or cause to be permitted, caused, kept or maintained any nuisance within the city. (*Ord. 7513, Adop. 7/30/1996*)

Sec. 8-203 Abatement of nuisances.

Whenever the City Sanitarian determines that a nuisance exists in the City, the Sanitarian shall issue a notice requiring the owner or agent of the owner of the premises to remove and abate from the premises the thing or things therein described as a nuisance within a time, not to exceed ten days, to be specified in the notice. The notice shall state that before the expiration of the waiting period, the recipient may request a hearing before the governing body or its designated representative. The notice shall be served on the owner or agent of such property by restricted mail or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by restricted mail to the last known address of the owner. (*Ord. 7513, Adop. 7/30/1996*)

Sec. 8-204 Same - Duty of occupants, owners or agents of property.

Upon the receipt of the notice specified in the preceding section, it shall be the duty of the occupant, owner or agent so notified to abate such nuisance within the time specified in such notice and it shall be unlawful for any such occupant, owner or agent to maintain or permit to be maintained any such nuisance after the expiration of such time. (*Ord. 7513, Adop. 7/30/1996*)

Sec. 8-205 Same - Authority of sanitation inspector to abate.

If the owner or agent fails to comply with the requirement of the notice for a period longer than that named in the notice, then the Sanitarian shall proceed to have the things described in the notice removed and abated from the lot or parcel of ground. The Sanitarian shall give notice to the owner or agent by restricted mail or personal service 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 the aforesaid 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. (*Ord. 7513, Adop. 7/30/1996*)

Sec. 8-206 Weeds and obnoxious vegetation.

The rank growth of weeds and obnoxious vegetation are hereby declared to be a nuisance, and it shall be the duty of all occupants, owners or persons in charge of lots or pieces of land within the city to cut and destroy all such weeds and vegetation on such lots or pieces of land and in the streets and alleys in front of and abutting upon such lots or pieces of land occupied or owned by them or under their charge, within 5 days after having been notified to do so by the sanitation inspector of the city. In the event such occupant, owner or person in charge of such lots or pieces of land shall fail, neglect or refuse to comply with the terms of such notice, or in case the sanitation inspector, after having used due diligence, is unable to locate any such occupant, owner or person in charge of such lots or pieces of land, the sanitation inspector shall destroy such weeds and vegetation on such lots or pieces of land and in the streets and alleys in front of and abutting upon such lots or pieces of land and shall keep an account of the cost of the same. The governing body shall levy, certify and collect such cost as a special assessment against the lots or pieces of land involved in the same manner as for repairing and building sidewalks.

Sec. 8-207 Abandonment of refrigerators, iceboxes, etc.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snaplock or other locking device which may not be released from the inside, without first removing such door, lid, snaplock or other locking device from such icebox, refrigerator or container. (*Ord. 3743, Adop. 1/08/1954*)

Article III. Graffiti.

Sec. 8-301 Definitions.

For the purpose of this article, the following terms shall have the meaning ascribed to them in this section:

"**Graffiti**" means any unauthorized writing, inscription, word, figure or design which is marked, etched, scratched, drawn or painted on any structural component of any building, structure or other facility, regardless of the nature of the material used in its application or upon which it is applied.

"**Owner**" as used in this section, means any person so designated in the current files of the Reno County Treasurer's Office and also any person having or claiming to have any legal or equitable interest in the premises.

"Property" or **"premises"** means any lot, parcel, tract, or piece of land, improved or unimproved, in the city, and includes any building or other structure located thereon.

"Supervisor" means the supervisor of the office of inspection.
(Ord. 7475, Adop. 9/05/1995; Ord. 7348, Adop. 11/19/1991)

Sec. 8-302 Enforcement-Personnel authorized.

In addition to all law enforcement officers, the following personnel employed by the city shall have the power to enforce the provisions of this article:

All employees under the supervision of the office of inspection; and

All authorized personnel under the supervision of the director of public works.
(Ord. 7475, Adop. 9/05/1995)

Sec. 8-303 Defacement or damage of property by graffiti.

Any person who writes, sprays, scratches or otherwise affixes graffiti upon any property, public or private, in which another has an interest and without the consent of such other person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars or more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment. In addition to such penalty the court may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person, or to pay any costs incurred by the owner related to the clean up, repair, or replacement of property damaged by that person. (Ord. 7475, Adop. 9/05/1995; Ord. 7348, Adop. 11/19/1991)

Sec. 8-304 Graffiti declared public nuisance - Owner/occupant's duty to remove.

The existence of graffiti upon any building, residence or other structure of property within the city is expressly declared to be a public nuisance and it shall be the duty of the owner and/or occupant of any building, residence or other structure or property that has been defaced by graffiti to clean up or otherwise cover such graffiti, or such graffiti shall be subject to abatement by the city as hereinafter provided. However, no person shall clean up or otherwise cover graffiti without first notifying the police department and allowing the police an opportunity to photograph such graffiti. (Ord. 7475, Adop. 9/05/1995)

Sec. 8-305 Immediate removal of graffiti without notice authorized.

Whenever any city employee authorized to enforce this article finds graffiti on any property within the city which can be seen by any person using any public right-of-way, such authorized employee may forthwith, without notice to the owner, temporarily obliterate such graffiti, or cause the same to be temporarily obliterated, by the least destructive or damaging means then available. Such authorized employee shall then send notice to the

owner to permanently remove the graffiti, following the procedures set out in Section 8-306. (Ord. 7475, Adop. 9/05/1995)

Sec. 8-306 Notice - Form.

Whenever any city employee authorized to enforce this article finds graffiti on any property within the city which can be seen by a person using any public right-of-way, such authorized employee shall cause a notice to remove graffiti to be served upon the owner, as shown in the current files of the Reno County Treasurer's Office.

The notice shall be in substantially the following form:

NOTICE TO REMOVE GRAFFITI

To _____, as owner:

Pursuant to the provisions of the code of the City of Hutchinson, Kansas, you are hereby notified to remove from _____ (Description of property)

AKA _____ (Address)

all graffiti as defined in the Code of the City of Hutchinson within seven (7) days from the date of this notice.

____ (check if applicable) Action has already been taken by the City to temporarily obliterate this graffiti, but the same must be permanently removed within seven (7) days from the date of this notice.

If all graffiti is not permanently removed from the above described property within seven (7) days from the date of this notice, the City will cause it to be removed and the charges for removal shall become a personal obligation and a lien upon your property.

If you intend to remove such graffiti yourself, you are required to obtain from the City a certificate stating that the graffiti has been satisfactorily, removed; otherwise if the City is dissatisfied with the manner in which the work was done, the graffiti will be further removed at your expense.

If you object to the removal of the graffiti from your premises, you may appeal to the Office of Inspection by filing a written notice of appeal in the Inspection office at City Hall, 125 East Avenue B, Hutchinson, KS. Such written notice must be filed within five (5) days from the date of this notice. Failure to appeal shall be construed as your acceptance of the determination by the City's authorized employee and any and all remedies provided by the Code of the City of Hutchinson.

Date: _____

Office of Inspection
City of Hutchinson, Kansas

(Ord. 7475, Adop. 9/05/1995)

Sec. 8-307 Notice - Service.

The notice to remove graffiti shall be served upon the person whose name appears as the owner of the premises involved in the files of the Reno County Treasurer's Office. Such service may be made either by personal delivery or by depositing the notice in the United States mail, postage prepaid, as certified, first class mail, return receipt requested, addressed to the owner at the most recent address appearing in the files of the Reno County Treasurer's Office. If no address for the owner appears in the files of the Reno County Treasurer's Office or if no address appears in the files of the Reno County Treasurer's Office or if no address appears upon actual premises, then service of the notice to remove graffiti may be made by posting the notice in a conspicuous place upon the property. Proof of service of the notice shall be made by affidavit of the person affecting the service, and the affidavit shall be sufficient for all purposes. (*Ord. 7475, Adop. 9/05/1995*)

Sec. 8-308 Appeal Hearing - Service of Notice.

If there is an appeal filed with the supervisor, a copy of the notice of hearing shall be served by certified mail upon the owner who has appealed. The notice of hearing shall be served at least ten (10) days before the hearing, and proof of service shall be made by an affidavit filed with the Office of Inspection. Service shall be deemed completed at the time of the deposit of the notice in a receptacle maintained by the United States Postal Service, with postage fully prepaid. The failure of any person to receive such notice of hearing shall not affect the validity of any proceedings under this chapter. (*Ord. 7475, Adop. 9/05/1995*)

Sec. 8-309 Appeal – Hearing - Procedure.

(a) At the time stated in the notice, the supervisor or his or her authorized designee shall hear and consider all relevant evidence, objections of protests, and shall receive testimony from owners, witnesses, including city personnel, and interested persons relative to the alleged public nuisance and to the proposed removal of the graffiti. The hearing may be continued without further notice.

(b) Upon conclusion of the hearing, the supervisor or his or her authorized designee, shall determine whether the premises, as maintained, constitute a public nuisance as set forth in this chapter. If the supervisor or his or her authorized designee finds that such public nuisance does exist, he or she shall determine how the nuisance is to be abated and shall establish a time, not to exceed seven (7) days, within which removal shall take place; and in the event the owner fails to correct the nuisance within the time described, the City shall cause the nuisance to be abated and the cost incurred by the City shall become a personal obligation of the owner and tenant and a lien upon the property.

(c) A copy of the determination by the supervisor or his or her authorized designee shall be served by mail upon the owner of the affected premises. Service shall

be completed at the time of its deposit in a receptacle maintained by the United States Postal Service, with postage fully prepaid.

(d) No legal proceeding or action shall lie against the City of Hutchinson or any officer, agent or employee of the city to enjoin the enforcement of its determination or orders made pursuant to this article, unless such legal action is commenced within thirty (30) days after the decision of the supervisor.
(Ord. 7475, Adop. 9/05/1995)

Sec. 8-310 Owner Removal Notice.

Every owner served with a notice or order to remove graffiti who upon his or her own account removes the graffiti from his or her property shall upon completion of the work immediately give written notice thereof to the Office of Inspection. Such notice shall be either delivered or mailed to the Office of Inspection. Upon receipt of such notice an authorized employee of the Office of Inspection shall cause the property to be inspected, and if no graffiti exists thereon, the owner shall be issued a certificate so stating. If graffiti still exists on the property, the authorized employee of the Office of Inspection shall cause it to be removed and the cost will be assessed against the owner and tenant and become a lien on the property as if no such notice of removal was received from the owner. (Ord. 7475, Adop. 9/05/1995)

Sec. 8-311 City Removal - Authorized.

If any owner served with a notice fails to remove the graffiti from such owner's property within the time stated in the notice, or order of the supervisor or his or her authorized designee after appeal, the owner shall be deemed to have consented to such removal by the City whose designated employee will thereupon be authorized to enter upon the property involved and remove the graffiti. (Ord. 7475, Adop. 9/05/1995)

Sec. 8-312 City Removal - Graffiti Abatement Levy Computation.

The supervisor or his or her authorized designee shall, after completing the removal of graffiti from any property, compute all expenses so incurred by the city, including any applicable administrative fees as determined by the Office of Inspection. All expenses shall be charged to and become an indebtedness of the owner of such premises. Provided, however, that no such charge or levy shall be made against any property or the owner of property where the supervisor or his or her designee has received a written authorization signed by such owner, or his or her authorized representative, permitting the city, or any other volunteer group or organization engaging in graffiti clean up with the city's consent, to enter upon such owner's property for the purpose of removing any and all graffiti that from time to time might be located on such property. Such written authorization shall be effective until withdrawn in writing by such owner and shall prevent any charge or levy for graffiti clean up expenses incurred after the date of such written authorization and for as long as it remains effective. (Ord. 7475, Adop. 9/05/1995)

Sec. 8-313 City Removal - Graffiti Abatement Levy Payment Notice.

Upon computing the expenses, the supervisor or his or her authorized representative shall serve the graffiti abatement levy upon the owner of the property where graffiti was removed, as the owner is determined from the current files of the Reno County Treasurer's Office. The notice to pay graffiti abatement levy shall be in substantially the following form:

NOTICE TO PAY GRAFFITI ABATEMENT LEVY

In accordance with the provisions of the Code of the City of Hutchinson, the Office of Inspection has caused the graffiti upon _____
(legal description)

AKA _____
(address)

to be removed at city expense.

You are hereby notified that the total cost of \$_____ is now due and payable to the City of Hutchinson, Kansas.

The Code of the City of Hutchinson, Kansas, provides in part, that the property owner, tenant or any other interested person may demand a hearing within fifteen (15) days of this notice. Such demand shall be in writing, filed with the Office of Inspection and shall describe the property involved, the reasons for objecting, and the name, address and interest of the appellant.

If no hearing is demanded, this payment shall become delinquent within thirty (30) days from this notice and if the amount due is not otherwise collected, a lien for this amount, plus a fee for preparation of the lien and any civil penalty shall be attached on the affected property and thereafter bear interest at the rate of 12% per annum until paid. (*Ord. 7475, Adop. 9/05/1995*)

Sec. 8-314 Hearing on charges.

Within fifteen (15) days from the date of the notice to pay, the property owner, tenant or any other interested person, may demand a hearing as to the reasonableness of such charges. Such demand shall be in writing and filed with the Office of Inspection. It shall describe the property involved, state the reasons for objecting, and include the address of the applicant for service of notices in connection with such hearing. The supervisor or his or her authorized representative shall thereupon set a date for a hearing of such protest. Such hearing shall be scheduled within a reasonable time. The supervisor or his or her authorized representative shall send written notice of such hearing in the manner provided

in this article. At the time set for such hearing all evidence pertinent to the reasonableness of the charges shall be heard and shall either confirm or modify the charges. The decision shall be final and the supervisor or his or her authorized representative shall certify the cost of such removal to the city clerk upon completion of the appeal hearing, which amount shall then become a tax on the real property upon which the removal occurred. In the event the cost of graffiti removal is not assessed against the real property, the city may thereafter maintain an action in the appropriate court against the owner and/or occupant upon whom notice was served as required by this article to recover the cost of removing such graffiti. (Ord. 7475, Adop. 9/05/1995)

Article IV. Weeds and Obnoxious Vegetation.

Sec. 8-401 Weeds to be Removed.

It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996; Ord. 7454, Adop. 2/07/1995; Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993)

Sec. 8-402 Definitions.

(a) "**Calendar Year**" as used herein, means that period of time beginning January 1 and ending December 31 of the same year.

(b) "**Weeds**" as used herein, means any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds which bear or may bear seeds of a downy or wingy nature;
- (4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
- (5) Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height, unless restrictive covenants are in place requiring that part of such premises be devoted to natural flora and/or native grasses, in which case indigenous

grasses in excess of 12 inches in height shall be allowed or unless the presence of indigenous, native grasses is otherwise compatible with and uniformly found throughout an improved subdivision and thus could not be considered to be a blighting influence.

(Ord. 2000-34, Adop. 11/21/2000; Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996; Ord. 7454, Adop. 2/07/1995, Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993)

Sec. 8-403 Public Officer; Notice to Remove.

The City Manager shall designate a public officer to be charged with the administration and enforcement of this chapter. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this chapter, by mail or by personal service, once per calendar year. Such notice shall include the following:

(a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.

(b) That the owner, occupant or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.

(c) That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.

(d) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.

(e) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.

(f) That no further notice shall be given prior to removal of weeds during the current calendar year.

(g) That the public officer should be contacted if there are any questions regarding the order.

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

(Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996; Ord. 7454, Adop. 2/07/1995; Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993)

Sec. 8-404 Abatement; Assessment of Costs.

(a) Upon the expiration of 10 days after receipt of the notice required by Section 3, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section 1, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

(c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

(Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996, Ord. 7454, Adop. 2/07/1995; Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993)

Sec. 8-405 Right of Entry.

The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this chapter. *(Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996, Ord. 7454, Adop. 2/07/1995; Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993)*

Sec. 8-406 Unlawful Interference.

It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. *(Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996, Ord. 7454, Adop. 2/07/1995; Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993)*

Sec. 8-407 Noxious Weeds.

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

(b) For the purpose of this section, the term "noxious weeds" shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*).
(*Ord. 7542, Adop. 3/25/1997; Ord. 7492, Adop. 2/27/1996, Ord. 7454, Adop. 2/07/1995; Ord. 7425, Adop. 2/15/1994; Ord. 7381, Adop. 1/19/1993*)

Article V.

Reserved

Article VI. Maintenance Standards for Downtown District

Hutchinson's Downtown District is the central historic neighborhood of the City, incorporating important commercial and residential properties, which require vigilant maintenance standards for the continued viability of the district.

Sec. 8-601 District Boundary

The Downtown District consists of Main Street from 7th Avenue to Avenue C, bounded one full block to the east including the alley and one full block to the west including the alley.

Sec. 8-602 Nuisances in Downtown District

Any property owner, proprietor or tenant shall maintain property in the Downtown District in the following manner:

1. Sidewalks adjacent to the property shall be maintained free of weeds, vegetation growing from cracks, and trash;
2. Building ledges and sidewalks adjacent to the property shall be kept free of bird droppings;
3. Alleys adjacent to the property shall be maintained free of weeds and trash;

4. Snow and ice shall be cleared for pedestrian traffic from sidewalks by 10 a.m., Monday through Saturday, or as soon thereafter as the snowfall ceases;

5. Graffiti shall be covered or removed from the property or a contract executed for the removal thereof within twenty-four (24) hours after discovered or reported and documented by police;

6. Broken windows or doors that are not used regularly for ingress and egress must be boarded up or covered securely within ten (10) days with materials that are compatible with the structure being protected;

7. Signs for businesses no longer in operation shall be removed within ten (10) days after business use ceases or, if part of the building structure, painted over or otherwise obscured, with the exception of signs considered to be of historic value to downtown as determined by the Landmarks Commission;

8. Awnings or other coverings attached to the property shall be maintained or, if damaged, removed within ten (10) days after the event occurs that causes the damage.
(Ord. 2009-34, Adop. 12/15/2009)

Sec. 8-603 Minimum Maintenance Standards

Any property owner, proprietor or tenant shall maintain the structural and historic integrity of property in the Downtown district in the following manner:

1. These components of a structure must be adequate and of sufficient size or strength to support imposed loads with safety:

- a. Footings or foundations;
- b. Flooring or floor supports;
- c. Walls, partitions and other vertical supports;
- d. Ceilings, roofs, ceiling and roof supports or other horizontal structures;
- e. Fireplaces or chimneys.

2. Exteriors of structures must be in good condition:

- a. Doors painted and in good repair;
- b. Windows not broken;
- c. Window replacements, other than those serving as temporary repairs, must be of glass or painted wood;
- d. Roofs sealed from leaks and maintained in a condition that does not allow water to leak into the primary property or adjoining properties;
- e. Exterior walls;
- f. Exteriors for which mortar is used must be maintained so that deteriorating mortar does not create a public safety hazard.

3. Exteriors of structures must be maintained in a condition that provides adequate protection from the elements:

- a. Foundations and floors must be waterproofed;
- b. Walls must be painted or covered with coatings appropriate for maintaining the integrity of historic buildings.

4. Structures must be maintained in a manner that decreases the chances of fires or accidents:

- a. Accumulation of rubbish and debris inside is prohibited;
- b. Any other condition that could cause or contribute to a fire or explosion should be minimized.

5. Appendages to exteriors of structures must be removed if significantly deteriorated or unusable:

- a. Abandoned fire escapes;
- b. Abandoned electrical boxes and conduits.

6. Interiors of unoccupied structures or interior spaces must have adequate interior climate control (minimum of 50 degrees) to limit deterioration.

7. Alleys must meet minimum conditions:

- a. Emergency access open at all times;
- b. Refuse containers covered and watertight;
- c. Refuse containers shall be placed to minimize inconvenience to adjacent property owners.

8. Materials stored in a structure by the property owner (only) shall be adequately screened from ground-level, Main Street view by passersby on the adjoining sidewalk or street.

9. Details pertinent to the standards cited in this section of City Code may be found in the City's building codes (2003 International Building/Plumbing/ Mechanical/Fuel Gas Codes; 2005 National Electric Code; 1997 Uniform Fire Code; 1997 Uniform Code for Building Conservation; U.S. Secretary of Interior Standards for Rehabilitation).

(Ord. 2009-34, Adop. 12/15/2009)

Sec. 8-604 Timelines for Responses

Unless otherwise specified in this Code, after notice, emergency/safety repairs described in Sec. 8-602 or 8-603 shall be completed within 48 hours, nuisances shall be abated within seven (7) days, temporary repairs within 30 days, and permanent repairs or replacements made within 180 days. *(Ord. 2009-34, Adop. 12/15/2009)*

Sec. 8-605 Conflicts with City Code

The maintenance standards in the Downtown District shall take precedence and supersede any provisions of City Code which are in conflict. *(Ord. 2009-34, Adop. 12/15/2009)*

Sec. 8-606 Violations

a. Whenever the Building Official or his designee determines that a violation of this code exists in the Downtown District, he shall issue a notice requiring the owner or agent of the owner of the premises to remove and abate from the premises the condition or conditions therein described within a time to be specified in the notice. The notice shall be served on the owner or agent of such property by certified mail or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by certified mail to the last known address of the owner.

b. Upon the receipt of the notice specified in the preceding section, it shall be the duty of the occupant, owner or agent so notified to abate such violation within the time specified in such notice, and it shall be unlawful for any such occupant, owner or agent to maintain or permit to be maintained any such violation after the expiration of such time. *(Ord. 2009-34, Adop. 12/15/2009)*

Sec. 8-607 Remedies

a. If the owner or agent fails to comply with the requirement of the notice, the Building Official or his designee may file an action in Municipal Court.. This will not apply with nuisances in Sec. 8-602 unless or until owner or agent has exceeded two violations of any one identified nuisance.

b. In the alternative, the Building Official may elect to have the conditions described in the notice abated from the property. The Building Official shall give notice to the owner or agent by certified mail or personal service of the estimated cost of such abatement incurred by the City. Such notice shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The City may also recover the cost of providing notice, including any postage, required by this section.

c. If the cost of such 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 the aforesaid costs, and the County Clerk shall add the same to 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. *(Ord. 2009-34, Adop. 12/15/2009)*