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ORDINANCE NO. 1877

**AN ORDINANCE AMENDING CHAPTER EIGHT (8) OF THE 2011
CODE OF THE CITY OF MARYSVILLE AS ADOPTED BY
ORDINANCE NO. 1773.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MARYSVILLE,
KANSAS:**

SECTION 1. ARTICLE 2. HEALTH NUISANCES

8-202. PUBLIC OFFICER. The governing body charges the city inspector or his or her designee with the administration and enforcement of this article and shall hereinafter be referred to as “public officer.” (Code 2011)

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

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the public officer, as designated by the governing body, may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2011)

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

(a) He, she or they shall have 10 days from the receipt of the order to abate the conditions(s) in violation of section 8-201; provided, however, that the public officer shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-201; or,

(b) He, she or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208. (Code 2011)

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

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

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

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the public officer of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2011)

SECTION 2. ARTICLE 3. ENVIRONMENTAL CODE

8-306. PUBLIC OFFICER. The governing body charges the city inspector or his or her designee with the administration and enforcement of this article and shall hereinafter be referred to as "public officer." (Code 2011)

8-309. ORDER OF VIOLATION. (a) The public officer, as designated by the governing body, shall serve upon the owner, any agent of the owner of the property or any other

person, corporation, partnership or association found by the public officer to be in violation of section 8-308 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

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

(2) That the person in violation shall have:

(A) 10 days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or;

(B) 45 days from the receipt of the order to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above;

(C) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in section 8-312 a hearing before the governing body or its designated representative on the matter; and;

(c) Provided, however, that the governing body (or its designee named herein) shall grant one or more extensions to the time periods stated in subsections (2) and (3), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-310 and/or abatement of the condition by the city according to section 8-311 with the costs assessed against the property under section 8-314. (K.S.A. 12-1617e; Code 2011)

SECTION 3. ARTICLE 5. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

8-502. (c) Public Officer - The governing body charges the city inspector or his or her designee with the administration and enforcement of this article and shall hereinafter be referred to as "public officer." (Code 2011)

8-507. ORDER OF VIOLATION. (a) The public officer, as designated by the governing body, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-503 an order stating the violation. The order shall be served

on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2011)

SECTION 4. ARTICLE 6a. MINIMUM HOUSING CODE

8-6a14. GOVERNING BODY: AUTHORITY. The governing body is hereby authorized:

- (a) To Informally Review all alleged violations as provided in section 8-6a12(a) prior to notification prescribed in section 8-6a12(b).
- (b) To Take Action as prescribed in section 8-6a12(b).
- (c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-6a18.
- (d) Discretionary Authority may be exercised in specific cases where variance from the terms of the code as:
 - (1) Will not adversely affect the public health, safety or welfare of inhabitants of the city.
 - (2) Is in harmony with the spirit of this code.
 - (3) Where literal enforcement of the code will result in unnecessary hardship. (Code 2011)

8-6a16. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS. (a)Failure to Comply with the order under section 8-6a15 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-6a09 of the code.

SECTION 5. ARTICLE 8. RODENT CONTROL

8-801. (f) Public Officer - The governing body charges the city inspector or his or her designee with the administration and enforcement of this article and shall hereinafter be referred to as "public officer." (Code 2011)

8-803. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the public officer, as designated by the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the public officer. (Code 2011)

8-806. NOTICE TO ERADICATE RATS. Whenever the public officer, as designated by the governing body, notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2011)

SECTION 6. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

SECTION 7. That this ordinance shall become effective upon and after its passage, approval and publication in the official city newspaper pursuant to KSA 12-3001, et seq.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 8th day of July, 2019.

CARLA GRUND
Mayor

ATTEST:

LUCINDA HOLLE
City Clerk

(SEAL)