

**CHAPTER 14- NUISANCES GENERALLY (REVISED)**

**ARTICLE 1 – NUISANCES GENERALLY**

**SECTION 14-1 – NUISANCES DEFINED; PUBLIC NUISANCES; PRIVATE NUISANCES**

- A. A nuisance is unlawfully doing an act or omitting to perform a duty or is anything or condition which either:
1. Annoys, injures or endangers the comfort, repose, health or safety of others;
  2. Offends decency;
  3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
  4. In any way renders other persons insecure in life or in the use of property.
- B. A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons , although the extent of the annoyance or damage inflicted upon the individuals may be unequal.
- C. Every nuisance not included in Subsection B above is a private nuisance.

**Section 14-2 – Successive owner responsible**

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

**Section 14-3 – Time does not legalize**

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public rights.

**Section 14-4 – Remedies against public nuisances**

The remedies against a public nuisance are:

- A. Prosecution on complaint before the municipal court;
- B. Prosecution on information or indictment before another appropriate court;
- C. Civil action; or
- D. Abatement:
  1. By person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or
  2. By the town in accordance with applicable law and ordinances.

**Section 14-5 – Remedies against private nuisances**

The remedies against a private nuisance are:

- A. Civil action; or
- B. Abatement:
  1. By person injured as provided in Sections 14 and 15 of Title 50 of the Oklahoma Statutes; or
  2. By the town in accordance with law or ordinance.

#### **Section 14-6 – Town has power to define and summarily abate nuisances**

As provided in Section 16 of Title 50 of the Oklahoma Statutes, the town has power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the town has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done.

#### **Section 14-7 – Certain public nuisances in the town defined**

In addition to other public nuisances declared by other sections of this ordinance, the following are hereby declared to be public nuisances:

- A. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
- B. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises;
- C. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
- D. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance;
- E. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;
- F. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public safety;
- G. Rank weeds or grass, carcasses, accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin, or disease germs; and the premises on which such exist;
- H. A dilapidated building as described below, and any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
- I. Any pit, hole or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
- J. Any fire or explosion hazard which endangers the public safety;
- K. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
- L. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate as required by law for vehicles used on the public highways, when stored or kept in a residence district; or
- M. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of the town, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation.

The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms.

#### **Section 14 -8 – Summary abatement of nuisances**

- A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require the mayor or other appropriate officer or agency of the town government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.
- B. Any person may submit through or with the consent of the mayor to the city council, a statement as to the existence of a nuisance as defined by the ordinances of the town or law, and a request or recommendation that it be abated to the city council.

- C. The city council shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the city council shall have power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance or have it abated, the city council shall give notice of a hearing on the proposed abatement to the owner of any property concerned and an adequate opportunity to be heard, if such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer if their names and addresses are known; but, if the names or addresses are not known, and the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the town.
- D. If the city council finds that a nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the city council shall direct the mayor to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by Section 16 of Title 50 of the Oklahoma Statutes . The town clerk-treasurer shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the town collectible as other debts to the town may be collected.

#### **Section 14-10 – Nuisance unlawful**

It is unlawful for any person, including but not limited to any owner, lessee, or other person to create or maintain a nuisance within the town or to permit a nuisance to remain on premises under his control within the city limits.

#### **Section 14-11 – Health nuisances; abatement**

- A. Pursuant to authority granted by Section 1-1011 of Title 63 of the Oklahoma Statutes , the health officer shall have authority to order the owner or occupant of any private premises in the town to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be directed in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a policeman or a copy thereof may be left at the last usual place of abode of the owner, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant or agent is unknown, or is without the state, the order may be served by posting copy thereof on the premises or by publication in at least one issue of a newspaper having a general circulation in the town.
- B. If the order is not complied with, the health officer may cause the order to be executed and complied with and the cost there of shall be certified to the town clerk-treasurer, and the cost of removing or abating such nuisance shall be added to the water bill or other town utility bill for the owner or occupant if he or she is a user of water from the town water system or such other utility service. The cost shall be treated as a part of such utility bill to which it is added and shall become due and payable and subject to the same regulations relating to delinquency in payment of the utility bill itself. If such owner or occupant is not a user of any town utility service, such cost, after certification to the town clerk-treasurer, may be collected in any manner in which any other debt due the town may be collected.

#### **Section 14-12 – Abandoned, wrecked autos prohibited.**

- A. For the purpose of this chapter, an "abandoned motor vehicle" includes any motor vehicle or vehicle which is abandoned, dismantled, rusted, non-operating, wrecked, junked or unlicensed, or which does not possess a current inspection sticker or equipment as required by state law.
- B. No person in charge or control of any property within the town limits of the town whether as owner, tenant, occupant, lessee, or otherwise shall allow any partially dismantled, non-operating, wrecked, junked, or unlicensed vehicle to remain on such property longer than seven (7) days. No person shall leave any such vehicle on any property within the town for a longer time than seven (7) days. The presence of an abandoned motor vehicle or parts thereof on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this section.
- C. This section shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

#### **Section 14-13 – Notice to the owner or occupant of the premises**

Prior to removal of an abandoned vehicle by the town, notice shall be given to the owner or occupant of the premises whereupon such nuisance exists stating the nature of the public nuisance giving the owner or occupant ten (10) days in which to remove or abate the nuisance. Such notice shall be mailed, by certified or registered mail with a five (5) day return requested, to the owner or occupant. If the notice is returned undelivered by a U.S. postal service official, or unsigned by the owners or occupant, action to abate the nuisance shall be continued to a date not less than ten (10) days from the date of such return.

#### **Section 14-14 – Public hearing**

Any owner or occupant of the premises on which the abandoned motor vehicle is located, after receiving notice to abate in accordance with the provisions of this chapter may, within ten (10) days after service of notice to abate the public nuisance, request a public hearing prior to the removal of the abandoned vehicle or part thereof declared to be a public nuisance. Such hearing shall be heard before the code enforcement officer or city council. Any order requiring the removal of a vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle if available at the site.

#### **Section 14-15 – Removal of motor vehicles from property**

If the violation described in the notice served pursuant to this article has not been remedied within the ten-day period of compliance, or in the event that a notice requesting a hearing has not been timely filed, and the existence of the violation is affirmed by the code enforcement officer or mayor, then the mayor may continue to recommend criminal charges on a daily basis for failure to abate the nuisance and/or shall have the right to take possession of the abandoned motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere, hinder, or to refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this section.

#### **Section 14-16 – Collection of costs of removal**

- A. Upon the failure of the owner or occupant of property from which abandoned motor vehicles have been removed by the town to pay the unrecovered expense incurred by the town in such removal, the amount of the unrecovered cost may be added to the municipal utility bills of the private property from which removed and recovered in the same manner as such bills.
- B. If the private property is not served by municipal utilities or if collection efforts are not successful, the cost may be certified by the City Clerk to the county treasurer of the county in which the property is located who shall add the same to the ad valorem taxes assessed against the property, until paid, and such costs shall be collected in the same manner as ad valorem taxes assessed against the property, and when collected shall be paid to the City.

#### **Section 14-17 – Orders from municipal court**

Any person convicted of a violation of this chapter shall be subject to a punishment as provided in Section 1-108 of this code. Conviction in the municipal court of a violation of this chapter shall not preclude the town from exercising further remedies as provided in this code and by law. Each act in violation of any of the provisions herein shall constitute a separate offense. Each day's continued violation of any of the provisions herein shall constitute a separate offense. The judge of the municipal court shall have authority to issue all orders necessary to enforce the provisions of this chapter.

#### **Section 14-18 – Immediate removal of vehicle obstructing traffic**

Nothing contained in this chapter shall affect the provisions permitting immediate removal of a vehicle left on public property which constitutes an obstruction to traffic

#### **Section 14-19 – Dilapidated buildings unlawful**

It is unlawful and an offense for any person to keep, maintain or own a dilapidated building in this town.

#### **Section 14-20 – Definitions**

As used in the chapter, the term "dilapidated building" means any building which by reason of the neglect of necessary repairs has fallen into a state of decay, or which has fallen into partial ruin to such an extent that the building is a hazard to the health or safety or welfare of the general public, or which poses a fire hazard.

#### **Section 14-21 – Report to mayor**

Any officer or employee or citizen of the town who discovers a building which is in violation of this chapter shall report the condition to the town mayor.

#### **Section 14-22 - Inspection, notice to owner**

Upon receiving the report as described in Section 16-3, or upon receipt of equivalent information from any reliable source, the town mayor shall forthwith investigate the premises. If the town mayor finds that the report is substantially correct and that corrective measures are necessary in order to comply with this chapter, the town mayor shall notify the owner of the property by certified mail with return receipt requested, as the identification of the owner is shown by the current years' tax rolls in the office of the county treasurer, that a complaint has been received by the town, and the town mayor shall request that the premises be placed in compliance with this chapter with fifteen (15) days.

#### **Section 14-23 – Hearing by town, notice**

In the event that the owner fails, refuses or neglects to place the premises in compliance with this chapter within the fifteen (15) day period, then the town mayor shall cause the matter to be placed upon the agenda of the town city council for hearing and consideration at the earliest convenient time. At least fifteen (15) days prior to the hearing by the town city council, the town mayor shall cause notice of the hearing to be posted upon the property and shall cause written notice of the hearing to be mailed to the owner by certified mail with return receipt requested at the address shown by the current year's tax rolls in the county treasurer's office. The town mayor shall also mail notice of the hearing to any mortgage holder as shown by the records in the office of the county clerk at the last known address of the mortgagee. The notice mentioned in this section shall contain the information as follows:

- A. The date, place and time of the meeting;
- B. The reason for the hearing;
- C. The fact that the owner may appear to be represented and be heard and present evidence on his behalf;
- D. The consequences of an adverse finding by the town city council, and
- E. Any further information that the town mayor deems appropriate.

#### **Section 14-24 – Determination by town, abatement of condition, work to be done**

At the hearing before the town city council the city council shall hear evidence and shall determine whether the property is dilapidated and has thereby become detrimental to the health, benefit and welfare of the public and the community or creates a fire hazard to the danger of life or property. Upon a finding that any of the conditions exist or upon a finding that a violation of this chapter exists, the town board of trustees shall be authorized to fix a reasonable date in which the property owner must tear down and remove the dilapidated building. The town shall also be authorized to fix reasonable dates for the commencement and completion of the work. If the work is not performed by the property owner within the dates fixed by the town city council, the town mayor shall be authorized to direct the tearing down and removal to be done by the town or by a private contractor. If the work is done by the town, the cost to the property owner shall cover the actual costs of the labor, maintenance and equipment required for the abatement. If the abatement is done on a private contract basis, it shall be awarded in the manner as other contracts are let. In the event that the town elects to have the town abate the dilapidated building, the agents and employees of the town are hereby granted the right of entry on such property for the performance of the necessary duties as a governmental function of the town. In the event that the abatement is undertaken by a private contractor, the contractor is hereby granted the right of entry on the property in order to place the property in compliance with this chapter.

#### **Section 14-25 - Costs determined**

The town shall also determine the actual costs of the dismantling and removal of the dilapidated building, and such other expenses as may be necessary in connection therewith, including the cost of notice and mailing in compliance with this chapter, and the town clerk-treasurer shall forward by certified mail with return receipt requested to the property owner, at the address shown by the current year's tax rolls in the county treasurer's office, and by mailing notice to any mortgage holder as shown by the records in the office of the county clerk at the last known address of the mortgagee, a statement of the actual and indirect costs and demand for payment thereof. If dismantling and removing of dilapidated buildings is done on a private contract basis, the cost shall be the cost of the bidder. If dismantling and removal of dilapidated buildings is done by the town, then the cost to the property owner shall cover the actual cost of labor, maintenance and equipment required for dismantling and removal of dilapidated building and indirect costs. If payment is not made within six (6) months from the date of such mailing, the town clerk-treasurer shall forward a certified statement of the amount of such cost to the county treasurer and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Such cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to other titles and liens against such property. The lien shall continue until such cost shall be fully paid.

#### **Section 14-26 - Penalty**

Any person convicted of a violation of this chapter shall be subject to a punishment as provided in Section 1-108 of this code. Conviction in the municipal court of a violation of this chapter shall not preclude the town from exercising further remedies as provided in this code and by law.

#### **Section 14-27 - Detrimental weeds and trash prohibited**

A. For purposes of this Article, the following definitions apply:

1. "Weeds" includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation in any state of maturity which:
  - a. Exceeds twelve (12) inches in height, except health trees, shrubs or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;
  - b. Regardless of height, harbors, conceals or invited deposits or accumulation of refuse or trash;
  - c. Harbors rodents or vermin;
  - d. Gives off unpleasant or noxious odors;
  - e. Constitutes a fire or traffic hazard; or
  - f. Is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

2. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal or waste, or matter of any kind or form which is uncared for, discarded or abandoned.
  3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.
  4. "Cleaning" means the removal of trash or weeds from property.
- B. No person in charge or control of any property within the town limits of the town whether as owner, tenant, occupant, lessee, or otherwise shall allow the accumulation trash or the growth of weeds or grass that causes the property to become detrimental to the health, benefit, and welfare of the public and the community, or a hazard to traffic, or creates a fire hazard to the danger of property.

- C. The provisions of this article shall not apply to any property zoned or used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, the town may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this article, but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

**Section 14-28 – Notice to the owner or occupant of the premises**

At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the addressee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined by Section 1 - 102 of Title 11 of the Oklahoma Statutes, one time not less than ten (10) days prior to any hearing or action by the municipality. If the municipal governing body anticipates summary abatement of a nuisance as described below, the notice, whether by mail, posting or publication, shall state that: any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the municipal governing body, that costs of such abatement shall be assessed against the owner, and that a lien may be imposed on the property to secure such payment, all without further notice to the property owner.

**Section 14-29 – Consent by the owner**

The owner of the property may give written consent to the municipality authorizing the removal of trash or the mowing of weeds or grass. By giving written consent, the owner waives the owner's right to a hearing by the municipality.

**Section 14-30 – Hearing by governing body**

- A. A hearing may be held by the municipal governing body to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community, or a hazard to traffic, or creates a fire hazard to the danger of property.
- B. Upon finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefitted by the removal of such conditions, the agents of the municipality are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the municipality.
- C. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality, and stating that the municipality claims a lien on the property for the cleaning or mowing costs.

**Section 14-31 – Determining costs for abatement**

- A. The governing body shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in Section 6-1 a statement of such actual costs and demanding payment. If the cleaning and mowing are done by the municipality, the cost to the property owner for the cleaning and mowing shall not exceed the actual costs of the labor, maintenance and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.
- B. If payment is not made within thirty (30) days from the date of mailing of the statement, then within the next thirty (30) days, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for herein.
- C. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person against the property owner and in

rem to foreclose its lien against the property. Upon receiving payment, if any, the municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

**Section 14-32 – Continuing violations**

If notice is given by a municipal governing body to a property owner ordering the property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures of this article, any subsequent accumulations of trash or excessive weeds or growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further notice to the property owner. At the time of each such summary abatement the municipality shall notify the property owner of the abatement and the cost of \$215.00. If the corrections are not made within 10 days, a fine of \$100/day may be levied. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing of the notice. The notice and hearing shall be as provided for in Section 6-1 herein. Unless otherwise determined at the hearing, the cost of such abatement shall be determined and collected as provided for above. This subsection shall not apply if the record of the county clerk shows that the property was transferred to another owner after notice was given.