

Chapter 13

NUISANCES

Article 1. Nuisances in General

Sec. 13-1-1. 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.

Sec. 13-1-2. Persons 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 therefore in the same manner as the one who first created it.

Sec. 13-1-3. Time does not legalize.

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

Sec. 13-1-4. Remedies against public nuisances.

The remedies against a public nuisance are:

- (1) Prosecution on complaint before the municipal court.
- (2) Prosecution on information or indictment before another appropriate court.
- (3) Civil action.
- (4) Abatement.
 - (a) By person injured as provided in 50 O.S. 1991, § 12.
 - (b) By the city in accordance with law or ordinance.

Sec. 13-1-5. Remedies against private nuisances.

The remedies against a private nuisance are:

- (1) Prosecution on complaint before the municipal court.
- (2) Abatement as follows:
 - (a) By person injured as provided in 50 O.S. 1991, § 14 and 15.
 - (b) By the city in accordance with law or ordinance.

Sec. 13-1-6. City has power to define and summarily abate nuisances.

As provided in 50 O. S. 1991, § 16, the city 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 city has 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.

Sec. 13-1-7. Certain public nuisance in the city defined.

- (a) In addition to other public nuisances declared by other sections of this code or law, the following are hereby declared to be nuisances;
- (1) Any building, sign, pole tower, fence, or other structure which has, through injury or neglect, become dilapidated and a hazard to the community and surrounding properties.
 - (2) Any lot or tract, which has become overgrown with weeds or contains trash, rubbish, or similar materials to the extent that it is considered to be a fire or health hazard.
 - (3) Any building which has become vacant or unsecured and/or provides an attractive location for illegal activities; a congregating place for transients; or hazard to children playing in the neighborhood.
 - (4) Locating, maintaining, or raising livestock or other animals without permits or licenses in violation of this Code.
 - (5) Locating, maintaining, or raising animals that annoy surrounding property owners through loud noises, odors, or unsanitary conditions.
 - (6) Operating any business establishment or non-business activity, which annoys surrounding property owners through loud noises, odors, etc. in violation of this Code.
 - (7) Any building, sign, pole, tower, fence, or other structure, which has been constructed in violation of city permit or building code standards.
 - (8) 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.
 - (9) Property containing rank weeds or grass, carcasses, accumulations of manure, refuse or similar which are likely to promote breeding places for flies, mosquitoes, destructive insects or animals, germs and bacteria.
 - (10) Maintenance of any hazardous chemicals, explosives, or corrosives in an unsafe manner or available to the public in an unsupervised environment.
 - (11) The sale, or offering for sale, of unwholesome food or drink; or the keeping of a place where such sales or offerings are made.
 - (12) The sale, offering for sale, or furnishing of intoxicating liquor in violation of the state law or ordinance of the city, or the keeping of a place where intoxicating liquor is sold, offered for sale, or furnished in violation of the state law or ordinances of the city.
 - (13) The exposure, display, sale, or distribution of obscene pictures, books, pamphlets, magazines, papers, documents, or objects; or the keeping of a place where such are exposed, displayed, sold, or distributed.
 - (14) The keeping of a place where persons gamble.
 - (15) The keeping of a place where prostitution, illicit sexual intercourse, or other immoral acts are practiced.
 - (16) The public exposure of a person having a contagious disease.
 - (17) The operation or use of any electrical apparatus or machine, which materially or unduly interferes with radio or television reception by others.
 - (18) 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 ordinances.
 - (19) 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.
 - (20) Any pit, hole, or other thing, which is so constructed, formed, conditioned, or situated as to endanger the public safety.

- (b) 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. *(Code 1971, § 13-7.)*

Article 2. Summary Abatement of Nuisances

Sec. 13-2-1. Designation of Hearing Officer and Right to Appeal.

The City of Chickasha does hereby designate the community development director to carry out the duties of the City of Chickasha specified in this article and to act as the hearing officer to conduct all hearings as provided herein. Following any action taken by the community development director pursuant to Article 2, the property owner or any affected party shall have a right to appeal to the city council of the City of Chickasha any finding or order of the community development director. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered. The term "Hearing Officer" when used in this article shall mean community development director. *(Ord. No. 99-01, 01/19/99.)*

Sec. 13-2-2. Condemnation of dilapidated buildings – Notice, - Removal – Costs – Lien – Nuisances.

- (a) The City of Chickasha may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this Section 13-2-2.
- (1) At least ten (10) day's notice that a building is to be torn down or removed shall be given to the owner of the property before the hearing officer holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, 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 mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication as defined in Section 1-102 of Title 11, of the Oklahoma Statutes. The notice may be published once not less than ten (10) days prior to any hearing by the hearing officer or action by the city pursuant to the provisions of this section.
- (2) A hearing shall be held by the hearing officer to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property.
- (3) Pursuant to a finding by the hearing officer that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the City of Chickasha may cause the dilapidated building to be torn down and removed. The city shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the hearing officer at the hearing, and stating that the municipality claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the municipality are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the municipality if the work is not performed by the property owner within dates fixed by the city.

(4) The city shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The municipal clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, 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 mailee. If the municipality dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

(5) When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, 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. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition, the cost and interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of five dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. At any time prior to collection as provided for in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section.

(6) Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

(7) For the purposes of this section:

(1) "Dilapidated building" means:

- (a) A structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public, *(Ord. No. 2002-01, 01/07/2002)*.
- (b) A structure which is unfit for human occupancy due to the lack of necessary repairs, and is considered uninhabitable, or is a hazard to the health, safety, and welfare of the general public, *(Ord. No. 2002-01, 01/07/2002)*.
- (c) A structure which is determined by the administrative hearing officer or the City Council to be an unsecured building, as defined by Section 13-2-3 of this Chapter and Article, more than three (3) times within any twelve (12) month period. *(Ord. No. 2002-01, 01/07/2002)*.

- (d) A structure which has been boarded and secured, as defined by Section 13-2-3 of this Chapter and Article, for more than thirty-six (36) months, or *(Ord. No. 2002-01, 01/07/2002)*.
- (e) A structure declared by the municipal governing body to constitute a public nuisance. *(Ord. No. 2002-01, 01/07/2002)*.
- (2) "Owner" means the owner of record shown by the most current tax rolls of the county treasurer. *(Ord. No. 2002-01, 01/07/2002)*.
- (8) Nothing in the provisions of this section shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.
- (9) The officers, employees, or agents of the municipality shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.
- (10) The provisions of this ordinance shall not apply to any property zoned and used for agricultural purposes. *(Ord. No. 99-01, 01/19/99.)*

Sec. 13-2-3 Boarding and securing dilapidated buildings – Definitions.

- (a) After a building has been declared dilapidated, as provided in Section 13-2-2 of this Chapter 13, and before the commencement of the tearing down and removal of a dilapidated building, the city may authorize that such a building be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the city may authorize the structure to be demolished pursuant to Section 13-2-2 of this chapter 13.
- (1) The City of Chickasha may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of Section 13-2-4 of this chapter.
- (2) The City of Chickasha may cause an unsecured building to be boarded and secured in accordance with the following procedures.
- (3) Before the city orders such action, at least ten (10) day's notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in Section 13-2-2(a)(1) of this chapter. At the time of mailing of notice to any property owner or mortgage holder, 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 mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the hearing officer pursuant to the provisions of this section. If the city anticipated summary abatement of a nuisance in accordance with the provisions of paragraph 10 of this subsection, the notice shall state that:
 - (a) Any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the city; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder.
- (4) The owner of the property may give written consent to the municipality authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives any right the owner has to a hearing by the hearing officer.

(5) If the property owner does not give written consent to such actions, a hearing may be held by the hearing officer to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety, or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building. In making such determination, the hearing officer shall apply the following standard: the hearing officer may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the hearing officer may order the boarding and securing of the unsecured building.

(6) After the hearing officer orders the boarding and securing of such unsecured building, the municipal clerk shall immediately file a notice of unsecured building and lien with the county clerk describing the property, stating the findings of the hearing officer at the hearing at which such building was determined to be unsecured, and stating that the municipality claims a lien on the property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice.

(7) Pursuant to the order of hearing officer, the agents of the municipality are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the municipality.

(8) After an unsecured building has been boarded and secured, the city shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The municipal clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in Section 22-112 of Title 11 of the Oklahoma Statutes. At the time of mailing of the statement of costs to any property owner or mortgage holder, 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 mailee. If the city boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials, and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

(9) When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and

interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

(10) If the city or the hearing officer orders or causes a structure within the municipal limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each summary boarding and securing, the municipality shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the municipal clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be provided for in paragraph (3) of this subsection. Unless otherwise determined at the hearing, the cost of such boarding and securing shall be determined and collected as provided for in paragraphs (8) and (9) of this subsection.

(11) The city may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this subsection even though such building has not been declared by the hearing officer to be dilapidated.

(12) For the purposes of this Section 13-2-3:

- (a) "Boarding and securing" or "boarded and secured," means the closing, boarding or locking of any or all-exterior openings so as to prevent entry into the structure.
- (b) "Unsecured building" shall mean any structure which is no occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways, or other similar unsecured opening which would facilitate an unauthorized entry into the structure.
- (c) "Unfit for human occupancy" means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public. (*Ord. No. 99-01, 01/19/99.*)

Sec. 13-2-4. Cleaning and mowing of property – Notice – Consent – Hearing – Right of entry – Costs – Lien – Definitions.

- (a) The City of Chickasha may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

(1) At least ten (10) day's 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 hearing officer holds a hearing or the city 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 said 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 mailee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the city, notice may be given by posting a copy of the notice on the property or by publication, as defined in 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 city anticipates summary abatement of a nuisance in accordance with the provisions of paragraph 7 of this section, the notice, whether by certified 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 city; that the 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 prior notice to the property owner

(2) The owner of the property may give his written consent to the municipality authorizing the removal of the trash or the mowing of the weeds or grass. By giving said written consent, the owner waives his right to a hearing by the hearing officer.

(3) A hearing may be held by the hearing officer 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.

(4) Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited 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. 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 stated that the municipality claims a lien on said property for the cleaning or mowing costs.

(5) The city 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, as specified in paragraph 1 of this subsection, a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the municipality, the cost to the property owner for said cleaning and mowing shall not exceed the actual cost 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.

(6) If payment is not made within thirty (30) days from the date of the mailing of the statement, 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. Until fully paid, the cost and interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition the 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 all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of five dollars (\$5.00) for each parcel of property. Said fee shall be deposited to the credit of the general fund of the county. At any time prior to the collection as provided in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. 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.

(7) If notice is given by the city 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 provided for in paragraph 1 of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior 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 costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in Section 13-2-2. Unless otherwise determined at the hearing the cost of such abatement shall be determine and collected as provided for in paragraphs (5) and (6) of this subsection. Provided, however, that this subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to paragraph (1) of this section.

(8) As used in this Section 13-2-4:

(a) "Weed" includes, but is not limited to poison ivy, poison oak, or poison sumac and all vegetation of any state of maturity which:

(1) Exceeds twelve (12) inches in height, except healthy 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 creates a fire hazard to the property or otherwise interferes with the mowing of said weeds;

(2) Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;

(3) Harbors rodents or vermin;

(4) Gives off unpleasant or noxious odors;

(5) Constitutes a fire or traffic hazard; or

(6) Is dead or diseased.

(b) 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.

(c) "Trash" means any refuse, liter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form, which is uncared for, discarded, or abandoned.

(d) "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

(e) "Cleaning" means the removal of trash from property.

(9) The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (*Ord. No. 99-01, 01/19/99.*)

Sec. 13-2-5. Duty to cut weeds.

It shall be the duty of the owner and of the occupant of any lot or tract within the City of Chickasha to maintain all plant growth and vegetation on said property from the curb line to the middle of the alley. Any weeds, noxious vines, grass, or other vegetation shall be maintained at a height of twelve (12) inches or less except unimproved acreage containing three (3) acres or more. Owners of unimproved acreage must maintain a firebreak of fifty (50) feet along the roadside and around any property line adjoining residential or other developed areas. It shall be at the discretion of the city inspector to require unimproved acreage of any size tract to be maintained at twelve (12) inches or less when specific circumstance warrants. If a conflict occurs then the owner/occupant may appeal the decision of the city inspector to the city manager and

city council if necessary. Any owner or occupant who permits weeds, noxious vines, and grass to grow in excess of the aforementioned standard(s) shall be deemed guilty of an offense. (Ord. No. 99-22, 11/15/99).

Sec. 13-2-6. Removal of Graffiti.

(a) The City of Chickasha may cause graffiti to be removed from property within the municipal limits in accordance with the following procedures:

(1) The property owner and tenant, if any, may give their written consent to the municipality authorizing removal of the graffiti. By giving such written consent, the owner and the tenant each waives the right to notice and a hearing by the hearing officer as otherwise required by this section.

(2) If the consent of the property owner and the tenant, if any, to remove graffiti from the property cannot be obtained, the municipality may remove the graffiti without such consent pursuant to the procedures set forth in this section.

(3) To remove graffiti from property without the consent of the property owner and the tenant, if any, at least ten (10) day's notice shall be given by mail directed to the address shown by the current year's tax rolls in the county treasurer's office. Notice to the tenant, if any, shall be given by mail directed to the property address. The notice shall order the property owner and the tenant, if any, to remove graffiti from the property and shall further state that unless such work is performed within twenty (20) days of the date of the notice the work shall be done by the municipality. At the time of mailing of notice to the property owner and the tenant, if any, 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 mailee(s). In addition, notice shall be given by posting a copy of the notice on the property at least one time not less than ten (10) days prior to any hearing by the hearing officer or action by the city. If the city anticipates summary abatement of graffiti in accordance with the provisions of paragraph (6) of this section, the notice shall state that any accumulations of graffiti on the property occurring within one (1) year from and after the date of the notice may be summarily abated by the municipality without a hearing and further prior notice to the property owner or the tenant, if any, except by posting of notice at least one time on the property not less than two (2) business days prior to such summary abatement.

(4) A hearing may be held by the hearing officer to determine whether the accumulation of graffiti on the property has caused the property to become detrimental or a hazard to the health, safety, or general welfare of the public and the community.

(5) Upon finding that the condition of the property constitutes a detriment or hazard, and that the property, the public, and the community would be benefited by removal of such conditions, the agents of the municipality are granted the right of entry onto the property for the removal of the graffiti thereon and for performance of the necessary duties as a governmental function of the municipality.

(6) If a notice is given by the city to a property owner and tenant, if any, ordering graffiti to be removed from property within the municipal limits in accordance with the procedures provided for in paragraph 1 of this section, any subsequent accumulations of graffiti on the property occurring within a one (1) year period may be summarily abated without further prior notice to the property owner or the tenant, if any. However, prior to the summary abatement by the municipality, notice thereof shall be posted at least one time on the property not less than two (2) business days prior to such summary abatement. This subsection shall not apply if the records of the county clerk show that the ownership and/or tenancy of the property was transferred after the notice was given pursuant to paragraph (1) of this section.

(7) Removal of graffiti by the city pursuant to the provisions of this section shall be performed at the sole expense of the municipality. In removing the graffiti, the

municipality shall restore the property as nearly as possible to the condition as it existed immediately prior to the graffiti being placed on the property.

(8) Nothing in the provisions of this section shall prevent the municipality from abating graffiti as a nuisance or otherwise exercising its police power to protect the health, safety, or general welfare of the public.

(9) The municipality and its officers, employees or agents shall not be liable for any damages or loss of property due to the removal of graffiti performed pursuant to the provisions of this section.

(10) For the purpose of this Section 13-2-6.

- (a) "Advertising" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public.
- (b) "Graffiti" means, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fence, gate, building or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, or by an authorized agent for such owner or tenant.
- (c) "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.
- (d) "Removal", "remove", or "removed", when used in relation to the eradication of graffiti means the act of taking graffiti off of, or masking the presence of graffiti on a rock, tree, wall, bridge, fence, gate, building or other structure.
- (e) "Tenant" means any person shown by the records of the county clerk's office as a lessee of property, or any person lawfully in actual physical possession of property. (Ord. No. 99-01, 01/19/99; Ord. No. 99-22, 11/15/99).

Article 3. Care of Premises

Sec. 13-3-1. Unlawful storage of abandoned items.

It shall be unlawful for the owner or occupant of any building, structure, or property to utilize the premises of such property for the open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such property clean and to remove from the premises all such abandoned items as listed above. (Ord. 1716, 5/9/85; Ord. 1960, 10/13/88.)

Sec. 13-3-2. Abandoned, wrecked, non-operating vehicles prohibited; exceptions, presumptions, impoundment.

- (a) Except as otherwise provided, no person shall park, store, or leave, or permit the parking, storing or leaving of, any abandoned, partially dismantled, non-operating, wrecked or junked vehicle, nor leave such vehicle for such time and under such conditions as to cause it to reasonably appear to have been abandoned, upon any private property, city street, public easement or right-of-way; and vehicles so abandoned or left shall constitute a public nuisance.

- (b) Persons excepted from the above subsection (a) are those who maintain such vehicles:
 - (1) In enclosed buildings;
 - (2) On premises of a business enterprise operated in a lawful place and manner, when such vehicle is necessary to the operation of such business;
 - (3) In an appropriate storage facility or depository which is maintained by or for the city.
- (c) A presumption shall exist that vehicles have been abandoned when:
 - (1) Weed and/or grass undergrowth indicates to a reasonable person that the vehicle has not been moved, thereby permitting such growth to occur;
 - (2) One or more wheels are flat or missing;
 - (3) Portions of the vehicle, which are needed for its operation or control, are missing;
 - (4) Neighbors offer statements as to the time length such vehicle has been standing in one place without removal, or statements that parts are taken from or added to such vehicle which would indicate a salvage or garage operation;
 - (5) Evidence exists that provisions of this code pertaining to zoning or to junk and salvage yards are being violated;
 - (6) License plate or plates and/or motor vehicle safety inspection certificate is not current.
- (d) Appropriate city officers may remove and impound, or cause to be removed and impounded those vehicles which appear:
 - (1) In violation of this section;
 - (2) Lost;
 - (3) Stolen; or
 - (4) Unclaimed.
- (e) Notice to remove. Prior to the removal and impoundment of any abandoned vehicle located on private property, the appropriate City officer shall attempt to notify, by certified mail, the registered owner or tenant, or occupant of such location that such vehicle appears to be in violation of this Article and that he has ten (10) days from the date of the notification and the posting of the vehicle, with a notice affixed to the vehicle containing similar provisions to remove or repair the same. (Mailing of notifications and posting will be completed on the same day.) (Ord. No. 2001-14, 12/03/2001).
- (f) Upon removal of any abandoned vehicle located on highways or other public property. Notice will be provide as required pursuant to the provisions of 47 O.S. § 901 et seq. directing such removal. (Ord. No. 2001-14, 12/03/2001).
- (g) Redemption of vehicles.
 - (1) Vehicles removed from highways or public places may be redeemed in accordance with regulations of the Department of Public Safety upon payment of reasonable costs of removal and storage of such vehicle. (Ord. No. 2001-14, 12/03/2001).
 - (2) Vehicles removed from private property may be redeemed anytime after the vehicle's removal upon proof of ownership, posting of any required bond, payment of any fines and costs assessment by the Court for violations of this Chapter and payment of any towing and storage fees to the party(ies) removing and/or storing said vehicle. (Ord. No. 2001-14, 12/03/2001).
- (h) The party lawfully in possession of any removed vehicle shall have a lien thereon for the compensation due him from the owner for all expenses incurred. (Ord. No. 2001-14, 12/03/2001).
- (i) After the lien has accrued for at least ten (10) days, said lien may be foreclosed upon by sale of such abandoned vehicle upon the giving of

notice, by mail, to the owner and any other persons claiming an interest in the abandoned vehicle at their last known mailing address by registered mail. Additionally, notice of said sale shall be posted in three (3) public places in the county in which the vehicle is to be sold at least ten (10) days prior to the time specified for such sale. (Ord. No. 2001-14, 12/03/2001).

(j) The notice required by said Subsection 13-3-2(i) shall include:

- (1) The name of the party bringing action and the name of the owner or any person claiming interest therein;
- (2) A full description of the vehicle, giving all available information as to the make, year, serial number and license tag with year and the state from which the tag was issued;
- (3) A full statement of all of the facts;
- (4) The amount of the claim, giving a full description of the work, labor, storage or any other costs involved;
- (5) The date, time, and place of the sale. (Ord. No. 2001-14, 12/03/2001).

(k) Funds received from the sale of the abandoned vehicle shall first be applied to the costs of the sale of the vehicle then to the satisfaction of the lien. Any remaining available funds will go to the owner of the vehicle, if known, and if unknown, to the general fund of the municipality. (Ord. No. 2001-14, 12/03/2001).

(l) For the purposes of this article, the following terms, phrases, words, or their derivations shall have the meanings respectfully ascribed to them in this section. (Ord. No. 2001-14, 12/03/2001) (Amended Ord. No. 2009-12, 08/17/2009).

(1) **Abandoned:** To cease from maintaining or using a vehicle as originally intended. (Amended Ord. No. 2009-12, 08/17/2009).

(3) **Motor vehicle:** Any vehicle which is self-propelled and/or designed to travel along the ground or water, and the term shall include, but not be limited to, automobiles, boats, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, travel trailers, camping trailers, truck campers, motor homes, and recreational vehicles. (Amended Ord. No. 2009-12, 08/17/2009).

(4) **Non-operating:** Any motor vehicle, as defined herein, which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, or is in such condition that it cannot be driven. (Amended Ord. No. 2009-12, 08/17/2009).

(5) **Private property:** Any real property within the city, which is privately owned, and which is not public property, as defined in this section. (Amended Ord. No. 2009-12, 08/17/2009).

(6) **Wrecked:** Something disabled or in a state of ruin or dilapidation. (Amended Ord. No. 2009-12, 08/17/2009).

Sec. 13-3-3. Health Nuisances.

(a) The city code compliance inspector shall have the authority to order the owner or occupant of any private premises to remove from such premises, at the owner's or occupant's 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 might be reasonable. Failure to comply with the order shall be a violation of the code.

(b) Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, or a copy thereof may be left at the last usual place of abode of such owner, occupant, or agent, if known and within the city. If the premises are

unoccupied and the residence of such owner, occupant or agent is unknown, or is without the city, such order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the county.

- (c) Where any of the above procedures are deemed to be impractical, the City of Chickasha, upon majority vote of the city council, may bring suit as set forth in Title 50 of the Oklahoma Statutes, Section 17, to require abatement of any or all public nuisance(s).

Article 4. Miscellaneous Nuisances.

Sec. 13-4-1. Dogs; when a nuisance.

- (a) A nuisance for the purpose of this section shall be:
- (1) When three (3) or more dogs congregate on any private property without the consent of the owner or occupant and annoy such owner or occupant.
 - (2) When any dog scratches or digs into or tramps on or over any flowerbed, garden, tilled soil, vines, shrubbery, or small plants.
 - (3) When any dog habitually prowls around on any private property to the annoyance of the owner or occupant of said property.
 - (4) When any dog goes into any garbage can or other waste vessel, or turns the same over or scatters the contents of same on the ground around it.
- (b) Provided that any person, either owner or occupant of any premises who is annoyed by any nuisance as defined by this section shall give written notice to the owner of such dog or dogs. Such notice shall be in writing, requiring such owner or person in possession of such dog or dogs, describing each dog, to prevent and abate such nuisance, and a copy of such notice shall be delivered to the animal control officer. All such dogs as have been described in the notice, which has been served as herein provided, shall, after the expiration of said notice, be impounded. It shall be the duty of the impounding officer to withhold said dog for a period of one (1) day within which time, the complainant shall file his complaint against the owner of such dog or dogs in the municipal court, charging such defendant with maintaining a private nuisance in violation of the city ordinances. In case of such complaint being filed, the judge of said court shall require that defendant appear and show cause at a time and place named therein why such nuisance should not be abated and prevented. If the court shall find that said nuisance exists in fact, it shall be his duty to turn over said dog or dogs to the impounding officer to dispose of as in other cases provided for the impounding of dogs. Provided that the owner or person in possession shall have such dog returned on payment of one hundred dollars (\$100.00), conditioned that he will abate, prevent and remove such nuisance, for a period of one (1) year from the date thereof. If said court shall find that no nuisance exists as herein defined, he shall deliver said dog or dogs to the defendant and shall tax all costs to the complainant. Provided that no proceedings shall be taken as authorized by this section or any part thereof, unless and until the complainant shall make a cash deposit of the sum of ten dollars (\$10.00) to cover all costs. Provided that nothing in this section shall be construed to provide for any dog to run at large, except as permitted under the city ordinances and provided further that any license or registration for any dog or dogs shall be subject to the provisions of this section. *(Code 1972, § 13-22.)*

Note: As regards dogs, see also **Chapter 3** of this Code.

Sec. 13-4-2. Circulars, etc., a nuisance.

- (a) Circulars, handbills, other papers, packages, or boxes, lying or accumulating on the streets, alleys, vacant lots or other premises are against the public health and are hereby declared to be a public nuisance. Any person who shall commit any act prohibited by this section shall be guilty of creating a nuisance against the public health of the city, to-wit:
- (1) Throws, places or drops or leaves any handbills, circulars, paper boxes, sample boxes, or stickers exclusively intended for advertising purposes, on any street, alley, vacant lot, public place or other premises within the city.
 - (2) Delivers any circulars, handbills, or advertising literature to persons on the streets, alleys, vacant lots, public places, or other premises or throws the same in any automobile or other vehicle at any of the aforesaid places.
 - (3) Tacks, nails, hangs, pastes, suspends or places any circulars, handbills or advertising matter in quantities of any size to poles, walls, fences, trees, or other outside fixtures for the purpose of being pulled off by the public.
 - (4) Places or sticks any label or poster on the windshield or other part of any car, automobile, sidewalk, curb, fence or pavement.
- (b) Any person employing another person or persons or engaging such person or persons to commit any of the acts herein declared to be a nuisance shall be regarded as aiding and abetting and shall be guilty of an offense. *(Code 1972, § 13-23.)*

Sec. 13-4-3. Loud speakers.

The use of loud speakers in the corporate limits of the City of Chickasha, State of Oklahoma, is hereby prohibited and declared a nuisance, except when specifically approved by city council action.

Sec. 13-4-4. Fly and Mosquito breeding.

It shall be unlawful for any person to suffer, permit or have upon his premises, whether owned or occupied by him either one or more of the following unsanitary fly producing or mosquito producing, disease causing conditions:

- (1) Manure, which is not securely protected from flies and mosquitoes.
- (2) Garbage which is not securely protected from flies and mosquitoes.
- (3) Vegetable waste, grass, sod, moldy grass, trash, litter, rags or refuse of any kind, nature, description, or composition in which flies or mosquitoes may breed or multiply.
- (4) Standing water, either in low places or vessels. Provided that all low places, pits, depressions, sloughs, ditches, sags or basins in which water naturally collects from rains or natural drainage or overflow or backwater shall be drained.

Sec. 13-4-5. Procedure cumulative. The various procedures for abating nuisances prescribed by this chapter and by other provisions of law and ordinances shall be cumulative one to the other; and the city may elect to follow any such procedure, which is applicable in abating any particular nuisance.

Sec. 13-4-6. Violations and Penalties.

Any person, firm or corporation, who violates or refuses to comply with any provisions of this Chapter, shall be fined in an amount not to exceed the maximum amount allowed by law for non-jury trials plus court costs. Each day's violation will constitute a separate offense. *(Ord. No. 2003-05, 05/19/2003.)*