

ORDINANCE NO. 3729

AN ORDINANCE AMENDING THE CURRENT NUISANCE CODES OF THE CITY BY AMENDING ARTICLES ONE THROUGH FIVE OF CHAPTER EIGHT AND ADDING A NEW SECTION TO ARTICLE TWO OF CHAPTER THIRTEEN OF THE MUNICIPAL CODE OF THE CITY OF OSAWATOMIE, KANSAS.

WHEREAS, the purpose of this ordinance is to protect, preserve, upgrade and regulate the environmental quality of industrial, commercial and residential neighborhoods in this City, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof; and

WHEREAS, the City Council has found that there exists within the City unsightly and hazardous conditions due to: health hazards; harborage of vermin; dilapidation, deterioration or disrepair of structure exteriors; accumulations increasing the hazard of accidents or other calamities; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicle parts; and

WHEREAS, such conditions are inimical to the general welfare of the community in that they have blighting influence on the adjoining properties, the neighborhood and the City, or are injurious to the health and safety of the residents of the City; and

WHEREAS, the Governing Body desires to promote the public health, safety of the residents of the City; and

WHEREAS, the Governing Body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

Section 1. Article 1 of Chapter 8 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 1. DEFINITIONS

8-101. DEFINITIONS. The words and phrases listed below when used in this Chapter shall have the following meanings:

(a) Abandoned or Inoperable Vehicle - shall mean:

(1) A condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purposes for which it was originally constructed, or

(2) The absence of a current valid registration plate upon such vehicle permitting that vehicle to be operated on the public streets and highways of the State of Kansas, unless the vehicle has a non-highway vehicle title issued solely because the

vehicle was not manufactured for street use, or

(3) The absence of one or more of the parts of the vehicle necessary for the lawful operation of the vehicle on the public streets and highways, unless the vehicle has a non-highway title issued solely because the vehicle was not manufactured for street use, or

(4) The placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.

(b) Accessory Structure - shall mean a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.

(c) Automobile repair - shall mean the repair or restoration of any motor vehicle body or parts, and shall include, without being limited to, glass installation and replacement, brake and muffler repair and replacement, window tinting, radio and stereo installation, tire and battery replacement, tune ups, repair and servicing of motor vehicle engines, including overhauls, transmission work, body work and painting.

(d) Building - shall mean any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.

(e) Commercial or Industrial - shall mean used or intended to be used primarily for the other than residential or agricultural purposes.

(f) Compost Pile - shall mean a mixture consisting of leaves, stems, grasses, dirt and other organic matter which shall be stored in an enclosure and used for garden soil conditioning purposes. Said enclosure shall be screened or placed in a manner which is not offensive to neighboring residents or the general public.

(g) Designated Driveway - shall mean the surfaced roadway leading from the street to the garage, covered parking area, or other permitted off street parking areas. Each residence is allowed on designated driveway for single family or duplex residences. The maximum width of the designated driveway for a single family residence or for each drive of a duplex is twenty-four (24) feet wide.

(h) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, crackling, peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

(i) Enclosed building - shall mean the primary structure or an attached garage fully enclosed by walls and a roof, with all windows or doors completely closed.

(j) Exterior - shall mean those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(k) Front surface of a residence - shall mean that wall surface, or combination of surfaces, that is visible from the front lot line; provided, however that surfaces which are perpendicular or nearly perpendicular to the front lot line are excluded, as are surfaces of minor building projections such as fireplaces or bay windows.

(l) Front yard - shall mean a yard across the full width of the lot extending from the front line of the main building to the front lot line.

(m) Garbage - shall mean all kitchen and table refuse and every accumulation of

animal, vegetable and other material that attends the preparation, consumption, decay or dealing in or storage of meat, fish, fowl, birds, grain, fruits, vegetables or other types of foods of whatever character and shall include all animal and vegetable refuse from kitchens and all household wastes that shall have resulted from preparation of food including tin cans and bottles.

(n) Graffiti - shall mean any writing, printing, marks, signs, symbols, figures, designs, inscriptions or other drawings which are scratched, scrawled, painted, drawn, etched or otherwise placed on any structural component of any building, wall, rock, window fence, sidewalk, curb, tree, sign, gate, or other real or personal or private property or public or right of way, regardless of the nature of the material used in its application. “Graffiti” shall not include any permitted sign allowed to be erected by other City ordinances.

(o) Hearing Officer - shall mean a person appointed by the Governing Body to conduct the hearing pursuant to this Chapter.

(p) Litter - shall mean garbage, refuse and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(q) Paved driveway or paved parking area - shall mean a hard-surfaced area designed and constructed specifically for use by motorized vehicles as a path for the vehicle to be driven across or as a location at which a vehicle could be parked or stored. Such driveways and parking area shall include only that surface area that is continuously connected to a public or private street via a paved surface wide enough for use by a standard passenger car. The paving material for a “paved driveway or paved parking area” shall consist of concrete, asphalt, paving, brick or similar material. The term “paved parking area” may include a public or private street where on-street parking is permitted.

(r) Person - shall mean any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant, or lessee, whether or not in possession.

(s) Premises - shall mean any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(t) Private property or private premises - shall mean any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes or commercial purposes or industrial purposes, whether vacant or not, and shall include any yard, grounds, parking area, walk, driveway, porch, steps, vestibule or mailbox appurtenant to such dwelling, house, building or other structure.

(u) Property Owner - shall mean any person, partnership or corporation who alone or jointly or severally with others has legal title to land and/or structures, or any person, partnership or corporation who is trustee or guardian of the estate of the title holder.

(v) Public Officer - shall mean a Police Officer employed by the City of Osawatomie or any other individual designated as a Public Officer by the City Manager.

(w) Public place - shall mean any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, spaces, grounds and buildings.

(x) Recreational Vehicle - shall mean any vehicles used for purposes other than

the primary source of transportation for a household, including travel trailers, folding tent trailers, motorhomes, truck campers removed from a truck or pickup, horse trailers, boats over fourteen (14) feet in length with or without trailers, all-terrain vehicles and other similar vehicles. This definition shall not include mobile homes.

(y) Refuse - shall mean any and all accumulations of, but not limited to, putrescible waste material, garbage, trash, rubbish, ashes, dead animals, abandoned automobiles and parts thereof, solid market and industrial wastes and construction wastes, paper, packing material, pasteboard, cinders, metal, sod, dirt, sand, rocks, bricks, or other masonry, and small tree limbs under five (5) inches in diameter when cut to a length of not to exceed three (3) feet and tied in bundles. The term refuse shall include waste products from the construction, remodeling, demolition or repair of any building, or resulting from any construction or building operation.

(z) Resident or tenant - shall mean the person, partnership or corporation occupying or utilizing the primary structure on the site as a residence in a residential structure or as a business tenant in a nonresidential structure.

(aa) Residential - shall mean used or intended to be used primarily for human habitation.

(bb) Residential zoning districts - shall mean that land area, including public and private streets, that is contained within one of the zoning districts defined by the Land Development Ordinance of the City of Osawatomie as a residential district. This definition shall include those sections of public and private streets that abut residentially zoned land on both sides.

(cc) Rubbish - shall mean non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

(dd) Section - shall mean the stated section of the Osawatomie Municipal Code.

(ee) Structure - shall mean anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(ff) Trailers - shall mean a utility trailer having a gross weight less than fifteen hundred (1500) pounds.

(gg) Trash - shall mean combustible waste consisting of, but not limited to: cartons, boxes, barrels, excelsior, furniture, bedding, rags, leaves, metal, tin cans, glass, crockery, plastics, mineral matter, ashes, cement debris, or street rubbish and sweepings.

(hh) Vehicle or motor vehicle - shall mean any a currently licensed motorized or non-motorized conveyance that includes, but is not limited to an automobile, car, truck, tractor, trailer, motorcycle or watercraft, in operable condition.

(ii) Vehicle owner - shall mean the person, part ownership or corporation registered as the owner of a particular vehicle.

(jj) Weathered - shall mean deterioration caused by exposure to the elements.

(kk) Weeds - shall mean, as used herein, any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds which bear or may bear seeds of a downy or wingy nature;
- (4) Weeds which are known to cause allergic skin reactions or other serious medical conditions to the general public such as poison ivy, poison oak, poison

sumac, and similar plants;

(5) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare; or

(6) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(ll) Yard - shall mean the area of the premises not occupied by any structure. Any unenclosed building or structure (i.e. car port, porch, deck, and pool) is considered yard for the purpose of this Article but are not counted in the total open space.

Section 2. Article 2 of Chapter 8 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 2. NUISANCE ENFORCEMENT & ADMINISTRATION

8-201. PUBLIC OFFICER. The City Manager shall designate a public officer(s) to be charged with the enforcement of this Chapter.

8-202. RIGHT OF ENTRY. It shall be a violation of this Chapter to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

8-203. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation.

8-204. ENFORCEMENT STANDARDS. No person shall be found in violation of this Chapter unless a public officer, after reasonable inquiry and inspection of the premises, finds evidence of nuisance conditions or other violations declared unlawful as outlined in this Chapter.

8-205. *Reserved for future use.*

8-206. INQUIRY AND COMPLAINTS; INSPECTION.

(a) The public officer shall make inquiry and inspection of premises that a nuisance may exist under the following circumstances:

(1) upon receiving a complaint or complaints that a nuisance exists; or

(2) the officer personally observes conditions which appear to constitute a nuisance;

(3) receiving written or documented information from any other employee or officer of the City, state or federal government having jurisdiction or knowledge to provide observation or notification of conditions which appear to constitute a violation.

(b) Upon making any inquiry and inspection, the public officer shall make a written report of findings.

8-207. NOTICE OF VIOLATION; AUTHORITY TO ISSUE NOTICE TO APPEAR.

Any person, corporation, partnership or association found by the public officer to be in violation of this Chapter shall be sent a Notice of Violation by the public officer. The Notice of Violation shall state:

- (a) The address where the condition exists; and
- (b) The condition which has caused the violation of this Chapter; and
- (c) The person or entity in violation shall have 10 calendar days from the date of Notice of Violation to alleviate any nuisance violation of this Chapter except an exterior structure nuisance shall have 30 calendar days; or in the alternative,
 - (1) The person or entity in violation may enter into a written agreement with the City to alleviate the nuisance violation within a specified time limit if the public officer believes an extended period of time is warranted. Failure to eliminate the violation under the terms of the agreement waives the right to a hearing before the hearing officer and the person or entity in violation will be served a Notice to Appear in Municipal Court; or
 - (2) That the person or entity in violation may, within 10 calendar days from the date of the Notice of Violation, request in writing for a hearing on the matter as provided in Section 8-210.
- (d) That failure to alleviate the condition will result in either,
 - (1) abatement of the condition by the City with the costs assessed against the property under Section 8-212; or
 - (2) the person or entity being served a Notice to Appear in Municipal Court for adjudication of the violation.

8-208. SERVICE OF NOTICES.

(a) Unless otherwise prescribed by Kansas statute, all written notices required to be given under the provisions of this Chapter may be served in the following manner:

- (1) By personal delivery at such person's residence—with an individual 18 years of age or older being a member of the family or cohabitant, or at such person's place of business with an employee of the business; or
- (2) By certified mail, return receipt requested to the person in violation and also to the owner, if the City abatement is assessed to the property; or
- (3) If the owner or the agent of the owner of the property has failed to accept delivery, or has otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, 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.
- (4) If in the event the whereabouts of such person is 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.

- (b) In the case of notices issued for grass or weed nuisances, the City shall only

provide one notice for each calendar year. All subsequent violations after the first notice, whether abated by the person in violation or by the City, will not require further notice in that calendar year before the City abates the grass or weed nuisance.

8-209. *Reserved for future use.*

8-210. **HEARING.**

(a) If a hearing is requested within the 10 day period as provided in Section 8-207, such request shall be made in writing to the City Clerk. Failure to make a timely request for a hearing shall constitute a waiver of the person's or entity's right to contest the findings of the public officer.

(b) The hearing shall be held by the Governing Body, as soon as reasonably possible after the filing of the request and the person or entity shall be advised by the City of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person or entity may be represented by counsel, and both parties, the person or entity and the City, may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body. The hearing need not be conducted according to the formal rules of evidence.

(c) Upon conclusion of the hearing, the findings of the Governing Body shall be prepared in resolution form, adopted by the Governing Body, and the resolution shall be served upon the person by the City in the manner provided in section 8-208.

8-211. **MUNICIPAL COURT; PENALTY.** The public officer or City Prosecutor may file a complaint in the Municipal Court and serve a Notice to Appear against any person who receives a Notice of Violation and does not correct the violation(s) within the allotted time or against any person that has failed under the terms of an agreement to eliminate the nuisance. Upon such complaint in the Municipal Court, any person found to be in violation of this Chapter shall upon conviction be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment for not more than 30 days, or by both such fine and imprisonment for each offense. For the purposes of this Chapter, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. If upon conviction of a nuisance herein under and it appears to the Court that the nuisance complained of is continuing, the Court may enter such order and shall deem appropriate to cause the nuisance to be abated.

8-212. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-211, the public officer may seek to remedy violations of this Chapter in the following manner. If a person to whom an order has been sent pursuant to section 8-208 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Governing Body within the time period specified in section 8-207, the public officer or other agents of the City may abate the conditions causing the violation at the end of 10 days after passage of the resolution.

8-213. **COSTS ASSESSED.** If the City abates or removes the nuisance pursuant to section 8-212, the City shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the City. The notice shall also state that the payment is due within 30 days following receipt of the notice. The City also may recover the cost of providing notice, including

any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

8-214. EMERGENCY ABATEMENT. In order to enforce the provisions of this Chapter, when the public officer finds and determines that the severity of the violation warrants immediate action, the officer may cause the clean up or abate the violation thereof by any appropriate means. The cost of such emergency cleanup or abatement may be recovered by the City as provided in section 8-213. Such emergency cleanup or abatement will not relieve the person of further action which may be taken by the City including but not limited to, liability for any violations of this Chapter or any other applicable provisions of state law and local ordinances.

8-215. *Reserved for future use.*

8-216. CONSTRUCTION. Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this Article shall be in addition to the supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance.

Section 3. Article 3 of Chapter 8 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 3. HEALTH & PROPERTY NUISANCES

8-301. HEALTH NUISANCES. It shall be unlawful for any person to maintain or permit any nuisance within the City as defined, without limitation as follows:

(a) Filth, excrement, lumber rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown, left, or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or premises whether vacant or occupied.

(b) All pools, spas, hot tubs and other bodies of water shall be properly maintained so as not to create a safety hazard, harbor insect infestation, become stagnant, polluted, deteriorated or blighted.

(c) Any place or structure or substance which emits or causes any offensive, putrescible, disagreeable or nauseous odors and stenches.

(d) Nauseous, putrescible, substances, carcasses of dead animals not removed within 24 hours after death.

(e) Attractive nuisances to children and other persons including, but not limited

to:

(1) Abandoned, broken, or neglected household appliances, equipment and machinery. Abandoned or unattended iceboxes, refrigerators or other container (over 1.5 cubic feet in volume) that has an airtight door or lid not in actual use, unless the door or lid thereof is removed from.

(2) Unfenced or unmaintained pools, unused basements and excavations; any open cistern, cesspool, well, or other dangerous openings. All such places shall be filled, securely covered or fenced in such a manner as to prevent injury to any person, and any cover shall be of such a design, size and weight that the cover cannot be removed by children.

(f) Wastewater or sanitary sewage not managed or disposed of as provided in this Code

(g) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the City.

(h) Any condition which provides harborage or breeding environments for insects, mice, snakes or other vermin.

(i) All slop, foul or dirty water, filth, refuse or offal discharged through drains or spouts or otherwise thrown or deposited in or upon any street, sidewalk, premises, park, public square, or public enclosure.

(j) Any condition which renders air, food or drink unwholesome, unsanitary or detrimental to health.

(k) Animals affected with disease or animal disease carriers, when the disease is one that may adversely affect the health of humans or other animals, unless the animal is under the active treatment and care of a licensed veterinarian for such disease.

(l) Pollution or contamination of any water supply or water course by sewage, industrial waste, chemicals, oil, junk, debris, or any other waste or product.

(m) Create or maintain any condition that obstructs or renders dangerous the use or passage of any park, stream, water course, sidewalk, parkway, public property, alley, street, highway or easement.

(n) Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides or waste (solid, liquid, or gaseous) which is determined by a Public Officer to constitute a fire or environmental hazard, or to be detrimental to human life, health or safety.

(o) Any other act, occupation, and use of property that in fact endangers or jeopardizes the public peace and safety.

8-302. YARD NUISANCE. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood, or the City. This shall include conditions which are not readily visible from any public place or from any surrounding private property. A yard nuisance shall include, but not be limited to, the scattering over or the leaving, depositing, or accumulation on the yard of any of the following:

(a) Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, boxes, barrels, drums, packing crates or pallets, salvage materials, junk or refuse, garbage, trash, litter or other materials except building materials to be used within ninety (90) days for construction on the premises if properly authorized by a current building permit and except properly maintained

compost piles as defined by this Article shall not constitute a nuisance. (b) Indoor furniture, appliances, mattresses, bedding, stoves, refrigerators, televisions, sinks, lawn mowers, shopping carts, or other such items of person property or general household items.

(c) In residential districts a maximum of 4 cords of wood on one premises and only in rear yard and neatly stored.

(d) All trees, hedges, signs, fences or other obstructions that violate the sight triangle requirements in the City Zoning Ordinance.

(e) All limbs of trees which are less than eight (8) feet above the surface of any public sidewalk or fourteen (14) feet above the surface of any street.

(f) The placement of clothes, laundry or washed articles in any portion of the front yard.

(g) Storing piles of dirt, rock gravel, sand, concrete, and other similar materials for more than ninety (90) days unless the materials are part of a project for which a building permit has been issued or is part of a legitimate business allowed under and in compliance with the City's zoning regulations.

(h) Property lacking appropriate landscaping, turf, or plant material so as to cause excessive dust.

(i) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use, public sale, or for ornamental purposes.

(j) All articles or things whatsoever caused, kept, maintained, or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood.

8-303. EXTERIOR STRUCTURE NUISANCES. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the City. This should not include conditions which are not readily visible from any public place or from any surrounding private property. Structure exterior nuisance conditions shall include, but not limited to, deteriorated, dilapidated, or unsightly:

(a) exteriors of any structure;

(b) exteriors of any accessory structure; or

(c) fences, walls, or retaining walls;

(d) refuse or personal property placed on rooftops;

(e) buildings, fences, signs, or other structures that are or have been abandoned, boarded up, partially destroyed, or permitted to remain in a state of partial construction for a period of ninety (90) days or more, (180 days for partial construction) and where continuation of the condition is unsightly or is hazardous to the public health, safety, or welfare.

(f) exterior nuisance conditions shall also include graffiti on the above listed exteriors.

8-304. *Reserved for future use.*

8-305. NOXIOUS WEEDS.

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

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), Johnson grass (*Sorghum halepense*), *Sericea Lespedeza* (*Lespedeza cuneata*), or any other plant defined noxious weed as defined in Chapter 2, Article 13 or the Kansas Statutes Annotated.

Section 4. Article 4 of Chapter 8 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 4. ABANDONED OR INOPERABLE VEHICLES

8-401. ABANDONED OR INOPERABLE VEHICLES.

(a) Except as provided below, it is unlawful for any person to park, store, or leave or permit the parking, storing or leaving of any abandoned or inoperable vehicle on private property unless it is within an enclosed building.

(b) The provisions of this section shall not apply where there is only one inoperable vehicle on the private property and where the vehicle is inoperable for a period of fifteen consecutive days or less. Vegetation, including weeds and trees, growing on, around or within a vehicle to such an extent that it is obvious can be used as evidence that the vehicle has not been moved for at least fifteen (15) days.

(c) The provision of this section shall not apply to any person, firm or corporation, or their agent, who is conducting a business enterprise concerned with repair, sale or storage of vehicles in compliance with the existing zoning ordinance.

8-402. DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE.

(a) Disposition of any motor vehicle removed and abated from private property pursuant to this Article shall be as provided by K.S.A. Supp. 8-1102, as amended.

(b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.

Section 5: That Section 8-505 of Article Five of Chapter Eight of the Code of the City of Osawatomie is hereby amended to read as follows:

8-505. CONFLICTS BETWEEN THE 2006 BUILDING CODES, THE 2006 PROPERTY MAINTENANCE CODE AND THE MUNICIPAL CODE AND CITY ORDINANCES. In the event any conflict exists between the 2006 Property Maintenance Code and the 2006 Building Codes as adopted by Ordinance No. 3662, the 2006 Building Codes shall take precedence. When the 2006 Property Maintenance Code is in conflict with the Municipal Code or the Ordinances of the City of Osawatomie in existence as of January 1, 2014, the Municipal Code or Ordinances

shall take precedence.

Section 6. Chapter 13, Article 2 of the Code of the City of Osawatomie is hereby amended by adding new section 13-216 which shall read as follows:

13-216. GRASS CLIPPINGS. It shall be unlawful for any person to mow, rake, deposit and/or place grass and weed clippings and other yard debris on, in or upon any highway, road, street or alley within the City of Osawatomie, Kansas. It shall be the responsibility of the person conducting such yard maintenance, to remove or clean all grass, weed and leaves clippings and other yard debris from the street, gutters, road, highway and alley following completion of yard work. Any person violating this ordinance shall, upon conviction thereof, be fined in an amount not to exceed One Hundred Dollars (\$100.00). Each day's violation shall constitute a separate offense.

Section 7. There is hereby created a new Article 7 of Chapter 14 of the Code of the City of Osawatomie which shall read as follows:

ARTICLE 7. VEHICLE PARKING

14-701. TRAILERS; PARKING ON STREET.

(a) No trailer of any kind shall be left unattached when parked on a public street or right-of-way, unless otherwise permitted by the City for the following reasons:

(1) Activities related to a community event.
(2) Demolition or construction requiring location of an unattached work trailer on the street.

(3) Loading and unloading of a trailer, if it is determined by the City that leaving the trailer connected to a motor vehicle would cause unnecessary traffic congestion or create a safety hazard for the public.

(b) No trailer of any kind when attached to a vehicle, shall be parked a public street for a period of time exceeding 48 hours, and when so parked, shall be located no nearer to an intersecting street than 100 feet, from the intersecting curb lines of the two streets nor located so as to obscure any driver's view of approaching traffic.

14-702. RECREATION VEHICLES; PARKING ON STREET.

(a) No trailer, motorized self-propelled camper, non-motorized travel trailer, or boat, canoe, personal watercraft, all-terrain vehicle, or any other type of recreational vehicle when on or off a trailer, shall be parked at any time in the following locations except when actively loading and/or unloading:

(1) On Main Street Between 5th and 7th Streets

(b) No trailer, motorized self-propelled camper, non-motorized travel trailer, or boat, canoe, personal watercraft, all-terrain vehicle, or any other type vehicle when on or off a trailer, shall be parked a public street for a period of time exceeding 48 hours, and when so parked, shall be located no nearer to an intersecting street than 100 feet, from the intersecting curb lines of the two streets nor located so as to obscure any driver's view of approaching traffic. All trailers must be attached to a motorized vehicle. Parking of unattached trailers on a public must comply with this article.

14-703. RECREATIONAL VEHICLE PARKING ON STREETS. No motorized self-propelled camper, non-motorized travel trailer, or boat, canoe, personal watercraft, all-terrain vehicle, other recreational vehicles, or vehicle, or trailer combination of vehicle and trailer shall be parked at any time in the following locations except when actively loading and/or unloading:

(a) On Main Street Between 5th and 7th Streets

14-704. COMMERCIAL OR FARM OR LARGE VEHICLES IN RESIDENTIAL DISTRICTS.

(a) It shall be unlawful for any person to park any vehicle which exceeds eight (8) feet in width, or twenty-one (21) feet in length, or eight (8) feet in height, on any street in any residence district for more than two (2) hours, except when actively loading and/or unloading or within the performance of a service to or upon property abutting the area where the vehicle is parked.

(b) No heavy equipment, vehicle rated above two tons in gross weight, farm or construction trailer attached or unattached to a vehicle, farm or construction machinery, or farm implement shall be stored or parked within any residential district unless parked within an enclosed building or carport.

(c) This section shall not prevent the parking of such vehicles meeting the following exemptions:

(1) the vehicle is part of community event and has received parking permission from the City.

(2) the temporary location of such vehicle or equipment on or adjacent to a property while actively engaged in a delivery, pick-up or service to the property.

(3) a vehicle which exceeds the requirements in this section by no more than 10 percent and is a vehicle that is used primarily as a passenger vehicle and not used for commercial purposes.

(4) a vehicle which has received a permit from the City for a single special circumstance, not exceeding twenty-four (24) hours during any thirty-day (30) day period.

(d) No person shall park or store any farm machinery, trailer or semi-trailer of any kind, or parts of the same, or any dead, damaged or disabled motor vehicle or farm machinery, trailer or semi-trailer of any kind, in the roadway of any highway, or between the property line or sidewalk and the curb line of any street.

14-705. ABANDONED VEHICLE ON PUBLIC STREET OR HIGHWAY. A person shall not use a public highway or street to abandon vehicles or use the highway or street to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway, street or other property open to use by the public, the City, after 48 hours or when the motor vehicle interferes with public highway or street operations, may remove and impound the motor vehicle. (K.S.A. 8-1102)

14-706. *Reserved for future use.*

14-707. PARKING OFF STREET, IMPROVED PARKING SURFACE REQUIRED.

(a) No person shall park a vehicle off the street in the front or side yard setback area, which shall be defined as the area between the public right-of-way and the rear

line of a building or any projection thereof, unless on parking or driveway surfaces required by the City Code.

(b) In residential areas, all vehicles (except RVs and trailers as provided in this Article) shall be parked in the following areas:

(1) on the designated improved parking area or driveway relating to the garage or carport.

(2) on an improved parking surface in the rear yard of the property, where the area is in compliance with the City's zoning regulations and ingress and egress to the rear yard is by a paved driveway or through an alleyway.

(3) in a designated parking areas for multifamily dwellings.

(4) in areas where there are no garages or carports, vehicles may be parked on the designated driveway constructed perpendicular to the street curb or surface to at least three (3) feet from the residence or the building setback. Such designated driveway should be located on the half of the lot closest to an interior lot line unless there are special circumstances approved by the building official.

(c) All new parking areas, including drives with street access, must be paved. Drives off an alley may be gravel.

(d) No parking shall be allowed in that portion of the street right-of-way not used for traffic movement (often referred to as the "berm"), unless specifically provided a special use permit as outlined in the City of Osawatomie zoning regulations.

(1) Any improvements in this area, including parking areas, will be subject to a site plan review and must meet the design criteria for hard surface on-street parking areas detailed in the City's zoning regulations. Any such parking constructed utilizing all or part of the "berm" would be considered part of the street and therefore will be considered public parking.

(2) To construct such parking and gain City approval, the applicant must demonstrate the need for such parking and also demonstrate it is in the best interest of the public, surrounding properties and to the City for the improvements to be made.

(e) For residential lots, the total outside parking or storage of all allowable items and types of vehicles and trailers is 10% of the total lot area or 1,400 square feet whichever is less at a single or duplex family residence. Such vehicle parking shall not exceed 30% of the open space of the lot in the front yard or 50% of the open space of the lot in the front, side or rear yards up to the maximum allowable parking or storage space. All front yard parking areas shall be directly in front of any attached or unattached garage area and shall not otherwise be located directly in front of the primary structure.

(f) No parking shall be allowed to obstruct or limit access to a public sidewalk.

(g) No parking or storage of any vehicle or trailer is allowed on vacant lots in residential zones.

17-708. RECREATIONAL VEHICLE AND TRAILER PARKING OFF STREET.

(a) Recreational vehicles (RVs) or trailers must be owned by the property owner or resident and shall not be parked in the front building setback unless there is no reasonable access to the building side yards or rear yards because of topography or other physical conditions on the site

(1) If parked in the front yard RVs or trailers must be at right angles (not parallel) to the street on a designated driveway not exceeding 24 feet in width. If the property has more than one driveway, then RVs or trailers must be at least three (3) feet from any side or rear lot line, if parked on a side yard facing a street it must be

parked on the half of the side yard closest to the residence.

(2) RVs shall not intrude into public right-of-way or obstruct sight visibility from adjacent driveways.

(3) No RV may be used for overnight accommodation on a public right-of-way, unless provided a permit by the City and subject to the City’s zoning regulations.

(4) If there is access to the side or rear yards, temporary parking of RVs or trailers on a driveway within a front yard setback is permitted for loading and unloading purposes not to exceed twenty-four (24) hours during an individual week.

14-709. *Reserved for future use.*

14-710. HABITUAL VIOLATOR.

(a) “Habitual Violator” shall mean any person who in the previous 180 days has done any of the following, in any combination, five or more times:

(1) Violated Sections 14-701 through 14-708 of this code, and amendments thereto.

(b) The thirty day period established above shall be measured from date of offense to date of offense.

14-711. ENFORCEMENT. The City Council or City Manager may determine that the provisions of this Article are not to be enforced because of a legitimate public purpose for a specified location or locations for a period not to exceed twenty-four hours.

14-712. FINES.

(a) Violation of this Article shall be punishable by a fine not less than \$30 nor more than \$100 for each offense. Each day's violation shall constitute a separate offense.

(b) Any person found to be a “Habitual Violator” as defined in Section 14-711 shall constitute a separate violation and shall be punishable by a fine not less than \$100 and not more than \$500. Each such finding in any 180-day period shall constitute a separate offense.

Section 8. EXISTING ARTICLES AND SECTIONS REPEALED. Article One, Article Two, Article Two-A, Article Three, Article Four, all in their entirety, and Section 8-505 of Article Five of Chapter Eight, of the Code of the City of Osawatomie as adopted prior to the passage of this Ordinance are hereby repealed.

Section 9. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this 14th day of May, 2015.

APPROVED AND SIGNED by the Mayor.

L. Mark Govea
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk