

CHAPTER 8: HEALTH AND SANITATION

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CHAPTER 8: HEALTH AND SANITATION

ARTICLE 1

WEEDS AND TRASH

SECTION 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

No person, entity or corporation owning or otherwise in possession or control of real property located within the corporate limits of the Town shall allow trash to accumulate, or weeds to grow or stand upon such real property.

State Law Reference: Cleaning, mowing property, municipal powers, 11 O.S. Section 22-111C.

SECTION 8-102 DEFINITIONS.

As used in this Article, the following terms shall have the meanings respectively ascribed to them in this Section:

1. "Cleaning" means the removal of trash from property;
2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;
3. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which in uncared for, discarded or abandoned; and
4. "Weed" includes but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:
 - a. Exceeds twelve (12) inches in height, except healthy trees, shrubs or produce for human consumption or 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 of a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;
 - b. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;
 - c. Harbors rodents or vermin;
 - d. Gives off unpleasant or noxious odors;
 - e. Constitutes a fire or traffic hazard; or
 - f. Is dead or diseased.

The term "weed" does 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.

SECTION 8-103 REPORTS OF ACCUMULATIONS OF GRASS, WEEDS OR TRASH ON PROPERTY.

Any officer or employee of the Town who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the Town, shall report the condition to the Mayor and Town Board of Trustees, if, as a result of the accumulation or growth, the premises appear to be:

1. Detrimental to the health, benefit and welfare of the public and the community;
2. A hazard to traffic; or
3. A fire hazard to property.

State Law Reference: Cleaning and mowing of property, procedures and powers 11 O.S. Section 22-111.

SECTION 8-104 CLEANING AND MOWING, NOTICE, CONSENT, HEARING, RIGHT OF ENTRY.

The Town may cause property within the corporate 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) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the hearing provided for herein or before action may be taken. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless the work is performed within ten (10) days of the date of the notice the work shall be done by the Town and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the Town. At the time of mailing of notice to the property owner, the Town 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 of same, notice may be given by posting a copy of the notice on the property or by publication, as provided 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 Town. If the Town anticipates summary abatement of a nuisance in accordance with the provisions as herein provided, the notice, whether by certified mail or publication, shall state:

a. 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 Town;

b. That the costs of such abatement shall be assessed against the owner; and

c. That a lien shall be imposed on the property to secure such payment, all without further prior notice to the property owner.

At the time of each summary abatement the Mayor shall notify the property owner of the abatement and 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. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided in Section 8-105. Provided however, these summary abatement procedures shall not apply if the records of the county clerk show that the property was transferred after the notice was given pursuant to this Section;

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

3. The Mayor and Town Board hereby designate the zoning officer to carry out the duties of the mayor and Town Board as provided by Sections 8-101 through 8-107 of this Article. A hearing may be held by the zoning officer of the Town 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. The property owner shall have a right of appeal to the mayor and Board from any order of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the Town clerk within ten (10) days after the administrative order is rendered; and

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefitted by the removal of such conditions, the agents of the Town 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 Town. Immediately following the cleaning or mowing of the property, the Town clerk shall file a notice of lien with the county clerk describing the property and the work performed by the Town, and stating that the Town claims a lien on the property for the cleaning or mowing costs.

SECTION 8-105 DETERMINATION AND ASSESSMENT OF COSTS.

The zoning officer shall determine the actual cost of such cleaning and mowing and any other expenses that may be necessary in conjunction therewith, including the cost of notice and mailing. The Town clerk shall forward by mail to the property owner specified in Paragraph 1 of Section 8-104 a statement of the actual cost and demanding payment. In cleaning and mowing are performed by the Town, the cost to the property owner for the 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.

SECTION 8-106 LIEN ON THE PROPERTY, CIVIL REMEDY.

If the costs of the work performed under this chapter are not paid within thirty (30) days from the date of mailing the statement, the Town 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 upon 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. At any time prior to collection as provided in this Section, the Town 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 Town clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

SECTION 8-107 EXCEPTION

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

SECTION 8-108 UNLAWFUL TO DEPOSIT RUBBISH.

It is unlawful for any person to throw, place or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trees, brush or any other refuse or waste matter in any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this Town.

SECTION 8-109 BURNING REFUSE.

A. It is unlawful to burn any trash or refuse or any type of material within the Town.

B. It is unlawful for any person to burn trash, waste paper, rubbish or refuse except under a permit issued by or in receptacles and conditions approved by the State Health Department or U.S. Environmental Protection Agency.

SECTION 8-110 REMOVAL OF DEAD ANIMALS

The owner or any person having charge of any animal dying in this Town, shall within twenty-four (24) hours after the death of such animal, remove its carcass, and failure to do so shall constitute a misdemeanor.

SECTION 8-111 UNLAWFUL TO LITTER.

A. Littering is defined as throwing any trash, refuse, waste paper, tin can, bottles or any other object or substance whatever upon the public streets, alleys, roadways and sidewalks of the Town or upon any real property owned or occupied by another.

B. It is unlawful for any person to litter.

SECTION 8-112 UNLAWFUL TO LITTER FROM AUTOMOBILES.

It is unlawful for any person to throw from any automobile or motor vehicle being operated and driven upon and over the streets, alleys and roadways of the Town any litter, trash, waste paper, and tin cans or any other substance or refuse whatever.

SECTION 8-113 LITTER NOT TO ACCUMULATE ON PROPERTY.

A. It is unlawful for any person, firm or corporation, occupying any real property, either as tenant or owner, to allow trash, waste paper, litter objects, bottles, tin cans or any other used or disposed of objects to accumulate upon such real property or premises being so occupied or rented to such an extent as to constitute a littering nuisance.

B. It is unlawful for any person, firm or corporation occupying real property, either as tenant or owner, to allow accumulated trash, waste paper, litter objects, bottles, tin cans or any other used or disposed of objects to be carried from the occupied premises, either by the wind, elements or otherwise to any adjoining or other real estate not so owned or occupied by the offender.

SECTION 8-114 ABANDONED REFRIGERATOR; APPLIANCES

A. It is unlawful for any person to leave in a place accessible to children any abandoned or discarded ice box, refrigerator, or other container which has an airtight door with a lock or fastening device which cannot be easily released for opening from the inside of the ice box, refrigerator, or container, without first removing the door, lock or fastener.

B. It is unlawful to utilize the premises of any property for the open storage of any stove or other appliance which has been abandoned, discarded or is in disrepair.

A.

Business Establishments:

1. Containers Furnished by the Town: the owners and/or operators of such business, commercial establishment or institution in the Town, being serviced by the town's solid waste department shall be furnished adequate refuse containers at such establishment by the Town. Charges for such containers and collection service shall be provided herein.
2. Wet Garbage: Businesses, commercial establishments and institutions depositing wet garbage in containers provided by the city for collection shall wrap such garbage in moisture proof paper or plastic bags prior to depositing in said containers.

- B. Enclosed Receptacles: No person shall deposit any wastepaper, cans or other rubbish for collection on any street or public or private property within the town without placing same in an enclosed receptacle or container.
- C. Refuse Can Specifications; Use; Placement; Removal:
1. Use: The owners, occupants or rental agents of residential dwellings shall provide a sufficient number of refuse containers or receptacles for the storage and disposal of garbage, rubbish and trash. As such, receptacles shall be kept clean and in good repair. The lids or covers of containers or receptacles shall be kept securely in place at all times that the container or receptacle contains refuse so that flies and other insects will not have access to contents thereof. Garbage containers shall at all times be kept sufficiently anchored to prevent their being tipped over by cats or dogs.
 2. Specifications: Refuse containers shall be of substantial galvanized metal or plastic construction and provided with handles of sufficient strength to lift such container and the contents therein and a tight fitting, fly-tight cover with handle. *Containers shall be not less than twenty (20) nor more than fifty (50) gallons and shall weigh not more than seventy five (75) pounds when filled.* All receptacles shall be watertight. Disposable plastic bags may be used in lieu of refuse containers provided herein. However, where disposable plastic bags are used, the bag must be securely tied and weight of contents shall not exceed the manufacturer's weight specifications, nor shall they be torn or contain objects not recommended by the manufacturer or that may create a hazardous condition for collection personnel.
- D. Nonconforming Containers:
1. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof, shall be promptly replaced by an approved container upon receipt of notice to that effect from the solid waste superintendent. If the container is not replaced within ten (10) days after receipt of notice, it shall be disposed of by the solid waste department as waste.
 2. Oil drums, grease drums and similar metal containers, paper grocery bags, broken wooden boxes or crates, broken or wet cardboard boxes are not acceptable as refuse containers and may not be picked up or emptied.
- E. Placement of Refuse Containers:
1. Inside Premises: Solid waste department personnel shall not be permitted to enter houses, gates, fenced portions of the premises, enclosed porches, garages or similar enclosure to make collections.
 2. Sunken Containers: Solid waste department personnel shall not be permitted to remove refuse containers or refuse from underground, sunken or recessed refuse container storage vaults or similar storage areas to make collection.
 3. Placement in Streets: All refuse containers shall be set out, properly bundled or in proper containers as provided herein, at the front curb line in plain view or in the event there is no front curb line, in plain view at the edge of the nearest public street fronting the dwelling unit.

- F. Removal of Refuse Containers: Refuse containers placed for collection as provided herein shall be removed by the owner or occupant from the place of their placement for pick up within twenty four (24) hours from the time said container is actually collected.
- G. Unauthorized Use, Meddling with Containers:
1. No person shall dispose of ashes, brush, garbage, non-collectable waste, refuse, rubbish or trash (hereinafter collectively "trash") upon public or private property except as specifically provided for in this chapter.
 2. No person, without being or having the permission of the owner, tenant or occupant of the premises served by an trash receptacle, shall damage or otherwise meddle or interfere with the use of any trash receptacle.
 3. No person shall deposit trash in a receptacle or container from collection thereof, whether said receptacle be privately owned or furnished by the city, without being or having the permission of the owner, tenant or occupant of the premises served by the said container. Provided, containers placed in public places such as parks, ball fields and along sidewalks may be used by the public for trash generated on those premises, but may not be use or disposal of off-site generated trash.
 4. Persons shall be responsible for proper disposal of their trash. It shall be prima facie evidence of unlawful disposal of trash if documents normally associated with the generation of trash bearing the name of the charged party, such as envelopes, prescription bottles, bills, mail and junk mail, are found in unauthorized containers.
 5. Violations of this section are determined to be offenses punishable within the jurisdictional limits of the municipal court.

ARTICLE 2

(RESERVED)

ARTICLE 3

NUISANCES

SECTION 8-301 _____ DEFINITION.

A nuisance shall mean the doing of an act unlawfully or omitting to perform a duty, which act or omission:

1. Annoys, injures or endangers the comfort, repose, health and safety of others; or
2. Offends decency; or

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 square, street highway or public parking; or

4. In any way renders other persons insecure in life, or in the use of property; or

5. Involves the maintenance of any building or structure within the Town limits which by reason of age, dilapidation or decay is unsafe for occupancy; or constitutes a haven or refuge for vermin and rodents; or presents a fire hazard and endangers the security of other property; or

6. Permits the accumulation of rank vegetation, weeds, grass or other noxious matter or putrid substances; or in maintaining any trash, piles of rubbish, manure or other refuse which is dangerous to health or which in any manner constitutes a fire hazard.

State Law Reference: Similar provisions, 50 O.S. Section 1.

SECTION 8-302 UNLAWFUL TO MAINTAIN NUISANCE

No person shall create or maintain a nuisance or permit it to be created or maintained upon property owned by him or under his control.

SECTION 8-303 ABATEMENT

A. In addition to prosecution for violation of Section 8-302, whenever a nuisance is found to exist, the mayor may cause notice thereof to be given to the person maintaining or creating the nuisance or to the person owning or having control of the property upon which said nuisance exists, to abate such nuisance within the period of time stated in the notice, which shall be not less than three (3) days from the receipt of said notice. The notice shall be served personally or by certified mail. In the event the address is unknown or the person cannot be located the notice shall be posted upon the property involved and published in the official paper of the Town for a period of five (5) days. If notice is published the person in charge shall have ten (10) days from the last publication in order to abate such nuisance. In the event the nuisance is not abated after such notice as required, the mayor shall have the authority to abate it and charge the cost thereof to the person creating, maintaining or owning or in control of the property upon which the nuisance is created or maintained, and the person so charged shall be afforded an opportunity to appear and present witnesses and be heard. Should the governing body find that a nuisance has been created or maintained the person responsible shall be given a reasonable length of time to abate it.

B. Any person who fails to abate any nuisance as required by this article shall be guilty of an offense.

State Law Reference: Authority to define, prevent, remove and abate nuisances, 11 O.S. Section 22-121.

SECTION 8-304 PERSON RESPONSIBLE FOR CONTINUING NUISANCE

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 person who first created it.

SECTION 8-305 TIME DOES NOT LEGALIZE NUISANCE

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

SECTION 8-306 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 a district or federal court or forum.
3. Civil action; and
4. Abatement:
 - a. By the person injured as provided in 50 O.S. 12 or
 - b. By the town in accordance with law or ordinance.

SECTION 8-307 REMEDIES AGAINST PRIVATE NUISANCES

The remedies against a private nuisance are:

1. Civil action; or
2. Abatement:
 - a. By the person injured as provided in 50 O.S. 14, 15 or
 - b. By the town in accordance with law or ordinance.

SECTION 8-308 TOWN HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCE

As provided in Section 16 of Title 50, the town is empowered 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 public water supply, outside of its corporate limits. Whenever it is practical to do so, the town has the power summarily to abate any such nuisance after notice and an opportunity for him to be heard, if this can be done.

SECTION 8-309 SUMMARY ABATEMENT OF NUISANCES

A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety and morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even require, the town or other appropriate officer or agency of the town government to take immediate and proper action

summarily to abate such nuisances or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B. An officer of the town may submit a statement as to the existence of a nuisance as defined by this ordinance and a request or recommendation that it be abated.

C. The town or its designee shall determine if a nuisance exists as defined by the ordinances of the town or law. If a nuisance does in fact exist, town personnel shall direct the owner or other person responsible for or causing the nuisance by:

1. Certified mail; or

2. By publication if the owner cannot be so served or found,

to abate the nuisance within a specified time if the peace, health, safety, morals or welfare of the person or person or public adversely affected would not be unduly jeopardized by the consequent delay, or if the owner or other person responsible for or causing the nuisance does not abate it within the specified time, or if the persons responsible authorize the town to abate the nuisance, the town shall direct the appropriate officer to abate the nuisance or have it abated, if summary abatement is practical, as authorized by 50 O.S. 16. The town shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the town collectible as other debts may be collected.

D. The determination of the existence of a nuisance and order to abate it, as made by the town, may be appealed by the occupant or owner or person causing the nuisance by filing a request for hearing in writing with the town within the period of time specified in the notice for abatement of nuisance. The Town Clerk shall cause the matter to be placed on the agenda of the town board of trustees for final determination with appropriate notice of the hearing provided to the person requesting the appeal.

SECTION 8-310 HEALTH NUISANCES; ABATEMENT

A. Pursuant to authority granted by Section 1-1011 of Title 63 of the Oklahoma Statutes, the town shall have the authority to order the owner or occupant of any private premises in the town to remove from such premises, at his own expenses, 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 conditions adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be reasonable. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the town or by a police officer, or a copy thereof may be left at the last usual place of abode of the owner, or if the occupant or agent is unknown or is outside the state, the 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 town.

B. If the order is not complied with, the town may cause the order to be executed and complied with, and the cost thereof shall be certified and the cost of removing or abating such nuisance shall be charged to the owner or occupant, enforceable as a lien or any other method allowed by law or ordinance.

SECTION 8-311 TOWN ACTIONS NOT TO JEOPARDIZE PRIVATE ACTIONS

Nothing herein contained shall be construed to abridge the rights of citizens of the town to bring and maintain actions in the proper courts for the abatement of private nuisances or those specially injurious to them.

SECTION 8-312 UNAUTHORIZED DUMPING, DEPOSITING OR DISPOSAL OF TRASH ON PROPERTY OF ANOTHER

A. It is unlawful to place, deposit or leave any trash, debris, refuse or garbage on the property of another or on public property, including any public street, easement, sidewalk, or other public property, except where such disposal is expressly allowed by law.

B. It is unlawful to place, deposit or leave any trash, debris, refuse or garbage in any dumpster or trash receptacle that is located on the property of another without the express consent of the person on whose property the dumpster or trash receptacle is located.

SECTION 8-313 OPEN BURNING PROHIBITED

It is unlawful to burn any fire outside of any enclosed building in the town for the purpose of burning grass, trash, leaves, weeds, paper, refuse, garbage or any other substance except in an approved incinerator, or by obtaining a permit and payment of such fee as set out by the town, or by the approval of the Fire Chief.

(a) Prohibition. No person shall set fire to or burn grass, tree limbs, lumber, trash, rubbish, debris or any combustible material within the city limits unless such burning is approved pursuant to the procedures provided in this section.

(b) Burn permit. Any person may make application to the fire chief or his designee for a controlled burn permit. The granting of permits shall be the exception, rather than the rule, with preference being given to those applicants where large volumes of combustible materials are concerned or where allowing the burn would reduce or control a hazard to the public. The application shall state the street address of the burn, the description of the physical area or boundary of the burn, the date and time of the burn, the materials to be burned, and the quantities of the same. The applicant must also obtain permission for the burn from the state department of environmental quality. Upon review of a completed application, the fire chief or his designee may issue a controlled burn permit if he believes the burn may be conducted without unduly endangering the safety of persons or property within the city. The fire chief or his designee may require the presence of firefighters on site during the burn. The applicant shall reimburse the city for its costs in deploying firefighters to supervise or control such burn whether the firefighters are deployed as a condition of the permit or whether they are deployed in response to a burn which has exceeded any of the conditions described in the permit or application. The city manager or his designee shall provide such cost information to the applicant. The nonrefundable application fee for a controlled burn permit shall be as established by resolution.

(C) Outdoor cooking. A fire may be built in any outdoor stove, fireplace, barbeque pit or portable burner for the purpose of cooking food without the necessity of obtaining a controlled burn permit, provided that any such fire shall be extinguished and made safe before the person starting or maintaining the same shall leave the place where the fire was started.

(d) Burn ban. The fire chief is hereby authorized to proclaim a prohibition upon the burning or setting of fires to any combustible material within the city when weather, drought or other natural conditions render any outside fires a danger to lives or property.

(e) City exempt. Nothing contained herein shall be construed as prohibiting the city from conducting controlled burns of the public rights-of-way or other city property, conducting burns for training purposes of fire department personnel or conducting burns for the removal of dilapidated structures or other public nuisances within the city.

(f) Penalty. The burning of any combustible material under conditions other than as prescribed herein shall constitute a public nuisance and shall be abatable as such in any of the manners prescribed by law. Further, any act of burning by any person within the city in violation of this section shall constitute a class C offense. Any deviation from the conditions stated in an application for a burn permit or any failure to satisfy any requirement specified in a controlled burn permit shall be a class C offense.

(g) Liability unaffected. This section shall not be construed to relieve from liability or lessen the liability of any permittee conducting a permitted burn for damages to any person or property injured resulting from such burn, nor shall the city be held as assuming any such liability by reason of the issuance of a burn permit or by supervision of such permitted burn.

(Code 1967, § 10-6; Ord. No. 2695, § 10-6, 9-15-1998)

SECTION 8-314 ABATEMENT BY SUIT IN DISTRICT COURT

In cases where it is deemed impractical summarily to abate a nuisance, the town may bring suit in the district court.

SECTION 8-315 PROCEDURE CUMULATIVE

The procedure for abating nuisances prescribed in this chapter and by other provisions of law or ordinance shall be cumulative to one another. The town may elect to follow any such procedure which is applicable in abating any particular nuisance.

SECTION 8-316 TOILET FACILITIES REQUIRED

A. For the purpose of this section, the following terms shall have the meanings respectively ascribed to them herein:

1. "Human excrement" means the bowel and kidney discharge of human beings.
2. "Sanitary water closet" means the flush type which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times; and
3. "Sanitary pit privy" means a privy which is built, rebuilt or constructed so as to conform to the specifications approved by the state health department.

B. Every owner of a residence or other building in which human reside, are employed or congregate within this town shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet or a sanitary pit privy. The closets and toilets hereby required shall be of the sanitary water closet type when located within one hundred fifty (150) feet of a sanitary sewer and accessible thereto and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system or the pit privy type. A septic tank system or a pit privy may be used in such cases only if it meets the standards of and is approved by the state health department.

C. All human excrement disposed of within this town shall be disposed of by depositing it in closets and privies of the type provided for in this section. It is unlawful for any owner of property within the town to permit the disposal of human excrement thereon in any other manner, or for any person to dispose of human excrement within the town in any other manner.

D. All privies shall be kept clean and sanitary at all times, and the covers of the seats of privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop or anything other than human excrement and toilet paper shall be emptied into a privy. No excrement from any person suffering from typhoid fever, dysentery or other serious bowel disease shall be deposited in any sanitary pit privy or sanitary water closet until it is disinfected in such manner as may be prescribed by the health officer.

E. All facilities for the disposal of human excrement in a manner different from that required by this section and all privies and closets so constructed, situated or maintained as to endanger the public health are hereby declared to be public nuisance is guilty of an offense and each day upon which any such nuisance continues is a separate offense.

F. No residence, business or commercial building, nor any other premises in the town, of located within three hundred (300) feet of any public sewer later or main shall be connected to or in any manner served by a septic tank; no such person shall allow the installation, maintenance, operation or use of any septic tank in violation of this section.

SECTION 8-317 OBSTRUCTING HEALTH OR ENFORCEMENT OFFICER

It is unlawful for any person to willfully obstruct or interfere with any health officer or other code enforcement officer charged with the enforcement of the health or nuisance laws of this town.

SECTION 8-318 LITTERING PROHIBITED GENERALLY

No person shall throw, place, leave, drop, put or otherwise abandon litter upon any public property, private property or roadway except as otherwise specifically permitted in this code. "Litter" means trash, refuse, rubbish and all like material.

SECTION 8-319 ABANDONED REFRIGERATORS

No person shall throw, place, leave, drop, put or otherwise abandoned or discarded ice box, refrigerator or other container which has an air-tight door with a lock or other fastening device which cannot be easily released for opening from the inside of the ice box, refrigerator or container, without first removing the door, lock or fastener.

SECTION 8-320 JUNK YARD PROHIBITED

It is unlawfully for any person to build or maintain a junk yard or to place on town lots, within the town, a junk yard or material commonly found in junk yards such as old car bodies, old vehicles, wrecked vehicles, old second hand materials commonly found in junk yards or similar places of business. It is unlawful to convert any lots which, as of September 1969, were not so used, into such junk yard or for the purpose of placing thereon material as described above.

SECTION 8-321 SALVAGE YARDS PROHIBITED

It is unlawful for any person to build or maintain a salvage yard in the town.

ARTICLE 4

JUNKED, WRECKED MOTOR VEHICLES

SECTION 8-401 NUISANCE.

Motor vehicles which are abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, or discarded, or left about the Town in places other than authorized junk yard or other areas authorized by the Town Board and which tend to do any one or more of the followings:

1. Impeded traffic in the streets;
2. Reduce the value of private property;
3. Create fire hazards;
4. Extend and aggravate urban blight; or

5. Result in a serious hazard to the public health, safety, comfort, convenience and welfare of the residents of the Town, are hereby declared to be a nuisance.

State Law Reference: Removal of abandoned vehicles on private property, 47 O.S. Section 954A; Grounds for removal of vehicles on state highways, 47 O.S. Section 955.

SECTION 8-402 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning given herein.

1. "Junk Motor Vehicles" or "abandoned motor vehicles" is any motor vehicle, which does not have lawfully affixed thereto an unexpired license plate or plates, the condition of which is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and is

incapable of being moved under its own power and is not stored in compliance with Section 8-403. "Junk Motor Vehicles" or "abandoned motor vehicles" shall also mean any motor vehicle located on any private or public property in the condition of which such motor vehicle is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and incapable of being moved under its own power, is not stored in compliance with Section 8-403, and remains in such condition for a period of three (3) months, without regard to whether such motor vehicle has lawfully affixed thereto an unexpired license plate or plates.

2. "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers;

3. "Private property" means any real property within the Town which is privately owned and which is not public property as defined in this Section; and

4. "Public property" means any street, alley, or highway which shall include the entire width between the boundary lines of every way publicly owned or maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

5. "Appropriate screen" shall mean an aesthetic barrier with a minimum opaque barrier not less than five (5) feet in height enclosing the junk motor vehicle. Such screen or barrier shall be dense landscaping, or a solid lumbar or masonry fence, wall or combination thereof, and may include the use of the walls of the residence or other building or structure, similar existing fencing, similar existing dense landscaping, all of which shall be of at least an equivalent height and capacity, and located on such property to provide for such enclosure. If solid lumber fencing is used, it shall be treated or painted in earth tone colors.

SECTION 8-403 STORING, PARKING OR LEAVING DISMANTLED OR OTHER SUCH MOTOR VEHICLE PROHIBITED; AND DECLARED A NUISANCE; EXCEPTIONS.

MOTOR VEHICLES. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle, including travel trailers or boats, shall be parked, kept or stored on any premises, and no vehicles shall at any time be in a state of significant disassembly, disrepair or in the process of being stripped or dismantled. Vehicle must be capable of being legally driven on city streets. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

No person shall park, store, leave, or permit the parking, storing, or leaving of any junk motor vehicle of any kind, whether attended or not, upon any public or private property within the Town. The presence of a junk motor vehicle or parts thereof, on private or public property is hereby declared a nuisance and a public offense. This Section shall not apply to any vehicle enclosed within a building on private property or completely within an appropriate screen or to any vehicle held, stored or parked in connection with a lawfully operated business enterprise and on property operated in the appropriate business zone, pursuant to the zoning laws of the Town, nor shall this Section apply to a Town owned vehicle in an appropriate storage place maintained, in a lawful place by the Town.

- Junk motor vehicles defined.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Junk motor vehicle means any motor vehicle, the condition of which is wrecked, dismantled,

partially dismantled, inoperative, abandoned, discarded, cannot be operated legally upon public streets or which does not display current vehicle registration.

Motor vehicle means any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, and trailers.

Private property means any real property located within the city which is privately owned and which is not included within the definition of public property.
Public property means any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and any other publicly owned property or facility.

STORING, PARKING, ETC. No person shall park, store, leave, or permit the parking, storing, or leaving of a junk motor vehicle, whether attended or not, upon any private property within the city for a period in excess of ten days. Each and every day such vehicle is parked, stored or left shall be deemed a separate offense. This section shall not apply to any vehicle in an enclosed building, a vehicle on the premises of a business enterprise which is properly operated in the appropriate business-zone pursuant to the zoning ordinance, to a vehicle being restored or repaired when reasonable progress is being made, or when any such vehicle has been placed in an appropriate storage place or depository maintained in a lawful place and manner.

VEHICLES STORED AT AUTOMOBILE REPAIR SHOPS. (a) Defined. As used in this section, "automobile repair shop" means any business entity which regularly offers automobile repair services to the public for the purpose of restoring, painting or otherwise repairing any damaged or inoperative automobile.

(b) Storage regulated. Notwithstanding any other provision of this article, it shall be a violation and an offense for any junk motor vehicle to be stored at an automobile repair shop for a period of more than 30 days, unless such junk motor vehicle is stored within a building, garage, privacy fence or other structure which eliminates the junk motor vehicle from the public view. Violations of this section shall be prosecuted and enforced in the same manner as other violations of this article.

GENERAL RESPONSIBILITY FOR REMOVAL. The owner of the junk motor vehicle and the owner or occupant of the private property on which it is located either or all of them, shall be responsible for the vehicle's removal.

NOTICE TO REMOVE. When it comes to the attention of the code official that a violation of this article exists, then a written notice of the violation and a demand for the removal of the junk motor vehicle within ten days of service of notice shall be served on the occupant of the land where the vehicle is, or in case there is no such occupant, then upon the owner of the property or agent. The notice may be served by posting a copy in a conspicuous place upon the private property upon which the junk motor vehicle is located and by mailing duplicate copies to the owner or occupant of the private property at the last known address with proof of mailing.

CONTENT OF NOTICE. The notice shall contain the request for removal within the time specified in this article and shall advise that, upon failure to comply with the notice to remove, the city shall undertake prosecution in municipal court against the responsible party.

VIOLATIONS. A violation of this article shall be unlawful. Any person who violates or refuses to comply with any of the provisions of this article upon conviction shall be guilty of a class B offense

for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. In addition to assessing a fine, the municipal court may order removal of the vehicle; if the responsible party fails to remove the vehicle in the time set by the court, the court may enter an order authorizing the code official to go onto the property and remove the vehicle, with the costs to be assessed against the responsible party.

ARTICLE 5

DILAPIDATED AND UNSECURED BUILDINGS; GRAFFITI

SECTION 8-501 DEFINITIONS.

A. As used in this Article:

1. "Dilapidated building" means:

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,

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,

c. a structure which is determined by the municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 8-504 of this Article, more than three times within any twelve-month period,

d. a structure which has been boarded and secured, as defined by Section 8-504 of this Article, for more than thirty-six (36) consecutive months, or

e. a structure declared by the municipal governing body to constitute a public nuisance.

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

SECTION 8-502 CONDEMNATION OF DILAPIDATED BUILDINGS; NOTICE REMOVAL

The Town may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this Article:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the hearing provided for herein may be held. 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 Town 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. Such notice may be published once not less than ten (10) days prior to any hearing or action to be taken pursuant to the provisions of this Section; or

2. The Mayor ("zoning officer") is hereby designated by the mayor and Town Board to carry out the duties of the mayor and Town Board specified in this Article. A hearing shall be held by the zoning officer of the Town 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. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the zoning officer may cause the dilapidated building to be torn down and removed. The zoning officer shall fix reasonable dates for the commencement and completion of the work. The Town clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the zoning officer at the hearing, and stating that the Town claims a lien in 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 Town 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 the dates fixed by the zoning officer. The property owner shall have the right of appeal to the mayor and Board from any order of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the Town clerk within ten (10) days after the administrative order is rendered.

SECTION 8-503 DETERMINATION OF COSTS, LIEN; MISCELLANEOUS

A. The zoning officer 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 Town 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 the mortgage holder at the address provided in Section 8-502. At the time of mailing of the statement of costs to any property owner or mortgage holder, the Town 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 Town 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.

B. When payment is made to the Town for costs incurred, the Town 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 Town 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 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 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. At any time prior to collection as provided for in this paragraph, the Town 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, the Town clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

C. Nothing in the provisions of this Article 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.

D. The officers, employees or agents of the Town 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 Article or as otherwise prescribed by law.

E. The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

SECTION 8-504 BOARDING AND SECURING DILAPIDATED BUILDINGS, PROCEDURE, NOTICE.

A. After a building has been declared dilapidated, as provided in this Article, and before the commencement of the tearing and removal of a dilapidated building, the Town Board may authorize such a building to be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the Town may authorize the structure to be demolished pursuant to this Article.

B. The Town may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with Article 1.

C. The zoning officer is hereby designated by the mayor and Town Board to carry out the following duties of the mayor and Town Board. The zoning officer may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the Town orders such action, at least ten (10) days' 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 8-502. At the time of mailing of notice to any property owner or mortgage holder, the Town clerk 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 mailer. 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 11 O.S. Section 1-102. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the Town or zoning officer pursuant to the provisions of this Section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with subsections C.9. of this Section, the notice shall state: that 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 municipal governing body; 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.

2. The owner of the property may give his written consent to the Town authorizing the boarding and securing of such unsecured building and to the payment of costs incurred thereby. By giving the written consent, the owner waives any right the owner has to a hearing by the Town Board;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the Town Board to determine whether the boarding and securing of the 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 held pursuant to the provisions of Article 1. In making such determination, the Town Board shall apply the following standard: the Town Board 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 municipal governing body may order the boarding and securing of the unsecured building.

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

5. Pursuant to the order of the Town Board, the agents of the Town are granted the right of entry on the property for the performance of the boarding and securing of the building and for the performance of all necessary duties as a governmental function of the Town;

6. After an unsecured building has been boarded and secured, the Town Board 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 the mailing. The Town 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 to any property owners and mortgage holders as provided in Section 8-503. At the time of mailing of the statement of costs to any property owner or mortgage holder, the Town clerk 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 mailer. If the Town boards and secures any dilapidated 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.

7. When payment is made to the Town for costs incurred, the Town clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the dilapidated building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the Town 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. 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.

8. The property owner or mortgage holder shall have a right of appeal to the mayor and Town Board from any order of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the Town clerk within ten (10) days after the administrative order is rendered.

9. If the Town causes a structure within the Town 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 such summary boarding and securing, the Town clerk 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 Town clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in subsection 1 of this Section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in subsection 7.

10. The mayor and Town Board may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this Section even though such building has not been declared, by the governing body, to be dilapidated.

11. For the purposes of this subsection:

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 not 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 the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure, and

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.

Nothing in the provisions of this Article shall prevent the Town from abating an unsecured dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

SECTION 8-506 EXCEPTION

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

SECTION 8-507 REMOVAL OF GRAFFITI.

A. The Town may cause graffiti to be removed from property within the Town limits in accordance with the following procedures:

1. The property owner and the tenant, if any, may give their written consent to the Town 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 Town 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 Town 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) days' 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 Town. At the time of mailing of notice to the property owner and the tenant, if any, the Town 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 mailer(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 or action by the Town. If the mayor and Town Board anticipates summary abatement of graffiti in accordance with the provisions 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 Town 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 once not less than two (2) business days prior to such summary abatement.

4. A hearing may be held by the mayor and Town Board 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 benefitted by removal of such conditions, the agents of the Town 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 Town.

6. The Town hereby designates the zoning officer to perform the functions set forth in this Section. The property owner and the tenant, if any, shall have a right of appeal to the mayor and Town Board from the decision of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the Town clerk within ten (10) business days after the administrative order is rendered.

B. If a notice is given by the Town 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 subsection A 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 Town, 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 notice was given pursuant to subsection A of this Section.

C. Removal of graffiti by a Town pursuant to the provisions of this Section shall be performed at the sole expense of the Town. In removing the graffiti, the Town shall restore the property as nearly as possible to the condition as it existed immediately prior to the graffiti being placed on the property.

D. Nothing in the provisions of this Section shall prevent the Town from abating graffiti as a nuisance or otherwise exercising its police power to protect the health, safety, or general welfare of the public.

E. The Town 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.

F. For the purposes of this Section:

1. "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;

2. "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;

3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;

4. "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; and

5. "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.

ARTICLE 6

ENFORCEMENT

SECTION 8-601 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it may be construed to mean the director of the county health department or his duly designated representative unless another person is designated by the mayor and Town Board. It is the intent and purpose of the mayor and Town Board of Trustees to delegate the enforcement of the health ordinances of this Town as set out in this Section and any such decisions rendered under this Section shall be subject to review by the governing Board upon an appeal from an offender.

SECTION 8-602 OBSTRUCTING HEALTH OFFICER.

It is unlawful for any person to willfully obstruct or interfere with any health officer or officer charged with the enforcement of the health laws of this Town.

SECTION 8-603 QUARANTINE; VIOLATIONS.

It is unlawful for any person to willfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule or regulation of the board of health or any officer charged with enforcement of such order, direction, prohibition, rule or regulation.