

CHAPTER 12

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CHAPTER 12

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Article 1 Weeds And Trash

Section 12-1 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 12-2 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 12-3 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 city, shall report the condition to the Zoning Officer, 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 12-4 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 city. 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 mailer. 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 city. 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 city;

- 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 Town clerk 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 12-5. 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 city;

3. The Mayor and Town Board of Trustees hereby designate the Zoning Officer or his designee to carry out the duties of the Mayor and Town Board of Trustees as provided by Sections 12-1 through 12-7 of this Article or as otherwise provided. A hearing may be held by the or his designee 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 council from any order of the Zoning Officer or his designee. 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 city. 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 city, and stating that the Town claims a lien on the property for the cleaning or mowing costs.

Section 12-5 **Determination and Assessment of Costs.**

The Zoning Officer or his designee 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 12-4 a statement of the actual cost and demanding payment. In cleaning and mowing are performed by the city, 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 12-6 **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 12-7 **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 12-8 **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 city.

Section 12-9 **Burning Refuse.**

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

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 12-10 **Removal of Dead Animals .**

The owner or any person having charge of any animal dying in this city, 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 12-11 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 12-12 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, tin cans or any other substance or refuse whatever.

Section 12-13 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 12-14 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.

Section 12-15 Open Storage of Materials

The entire front yard of any residential lot located in the Town, to include side yards not appropriate screened as provided in Section 12-42.1 hereinabove, shall be kept and maintained free and clear of all building and automotive materials, trash, junk, debris, household appliances, chairs, couches, all manner of other items constructed for use inside the building or residence, junk motor vehicles and camper shells not mounted on motor vehicles, and trash, and junk and debris filled boats and trailers, including utility trailers.

Note: This Section was approved as Ordinance No. 2014-330 approved on July 28, 2014.

Article 2 Reserved

Article 3 Nuisances

Section 12-31 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 12-32 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 12-33 Abatement.

A. In addition to prosecution for violation of Section 12-32, whenever a nuisance is found to exist, the Zoning Officer 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 Zoning Officer 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.

Article 4 Junked, Wrecked Motor Vehicles

Section 12-41 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 of Trustees 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 city, are hereby declared to be a nuisance.

Section 12-42 Definitions.

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

1. "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.
2. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" is any motor vehicle, which does not have lawfully affixed thereto both 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 exempt from compliance by Section 12-43B. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" 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, and is not exempt from compliance by Section 12-43B., and remains in such condition for a period of thirty (30) days,

without regard to whether such motor vehicle has lawfully affixed thereto an unexpired license plate or plates. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" shall also mean motor vehicles used in demolition races or derbies or similar contests.

3. "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.
4. "Private property" means any real property within the Town which is privately owned and which is not public property as defined in this Section.
5. "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.

Section 12-43 Storing, Parking or Leaving Junk Motor Vehicle or Abandoned Motor Vehicle on Public or Private Property Prohibited; and Declared a Nuisance; Exceptions.

A. 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 city. The presence of a junk motor vehicle or parts thereof, on private or public property is hereby declared a nuisance and a public offense and may be abated as such in accordance with the provisions of this Chapter.

B. This Section shall not apply to any motor vehicle:

1. Enclosed within a building on private property;
2. Completely within an appropriate screen in the back yard on private property;
3. Held, stored or parked in connection with a lawfully operated business enterprise and on property operated in the appropriate zone, pursuant to the zoning laws of the city;
4. In operable condition and is not a junk motor vehicle as defined herein.
5. Motor vehicles parked on private property which display an unexpired license plate or plates, but which motor vehicles are temporarily out of service due to mechanical breakdown or damage, but only so long as the owner thereof makes diligent efforts to place same back into operable condition, and shall not remain on such private property in such condition for longer than thirty (30) days.

Section 12-44 Presumption of Abandonment.

A rebuttable presumption shall exist that a motor vehicle has been abandoned when:

1. Weed or grass undergrowth would indicate to a reasonable person that the motor vehicle has not been moved, thereby permitting such growth to occur;

2. One or more wheels are flat or missing and the motor vehicle displays an expired license;
3. Portions of the motor vehicle which are needed for its operation or control are missing;
4. The Town has received reports from others as to the length of time such motor vehicle has been standing in one place without being moved, or that parts are being taken from or added to such vehicle, indicating a salvage or garage operation; or
5. Evidence exists that provisions of this code pertaining to zoning or to junk and salvage yards are being violated.

Section 12-45 Notice to Remove from Public Property.

Whenever it comes to the attention of the Code Enforcement Officer that any junk vehicle, as defined herein, exists as a public nuisance in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the event that there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. A written, public nuisance "Notification to Remove" shall be placed on the vehicle advising the owner of the violation of Town code and of the twenty-four (24) hours to remove the nuisance from the public property. Concurrent with the abatement notice placed on the motor vehicle, the owner of the motor vehicle shall be issued a citation. Failure to remove the motor vehicle shall be an offense, and shall be punishable as provided by the general penalty in this code.

Section 12-46 Responsibility for Removal from Public Property.

Upon proper notice and opportunity to be heard, the owner of the junk vehicle or other abandoned, wrecked, dismantled, or inoperative motor vehicle on public property shall be liable for all expenses reasonably incurred by the removal and disposition.

Section 12-47 Notice to Remove from Private Property.

A. The Code Enforcement Officer shall give notice of removal to the owner or occupant of the private property where any junk vehicle or any abandoned, wrecked, dismantled or inoperative motor vehicle is located at least ten (10) days before the time set for compliance. It shall constitute sufficient notice when a copy of a Notice to Remove is posted in a conspicuous place upon the private property upon which the vehicle or boat is located.

B. The Notice of Removal shall contain the demand for removal within ten (10) days, and the Notice to Remove shall state that upon failure to comply with the Notice to Remove, the Town shall prosecute a criminal complaint for failure to abate the nuisance or undertake such removal with the cost to be levied against the owner of the junk vehicle or the occupant of the property.

Section 12-48 Hearing.

A. Any person to whom any Notice to Remove is directed pursuant to the provisions of this chapter or any other interested party, or any duly authorized agent thereof, may file a written request for hearing before the Zoning Officer or his designee within the ten (10) day compliance period, for the purpose of contesting the city's demand for removal.

B. The hearing shall be held as soon as practicable. Notice of the time and place of hearing shall be directed to the person making the request. The Zoning Officer or his designee may take any action based on the evidence presented.

C. Persons to whom the Notice to Remove is directed pursuant to the provisions of this chapter, or their duly authorized agent, shall appear in municipal court pursuant to the citation and summons. Those persons convicted of violating these provisions, including the failure to abate a public nuisance pursuant to this chapter shall be assessed court costs and assessments in addition to any fine assessed by the municipal court. If the public nuisance is abated prior to the hearing date stated on the summons, and the person issued the summons to appear in municipal court signs an affidavit before the court clerk attesting to the abatement, the Town attorney may recommend to the municipal court that charges be dropped.

Section 12-49 **Removal of Motor Vehicles from Property.**

If the violation described in the Notice to Remove has not been remedied within the ten-day period of compliance, or in the event that a notice requesting hearing is timely filed, a hearing had, and the existence of the violation is affirmed by Zoning Officer or his designee, the Town attorney shall institute and prosecute additional charges on a daily basis, for failure to abate the nuisance, and the Town shall in the discretion of the Code Enforcement Officer to take possession of the junk vehicle and remove it from the premises. It shall be unlawful for any person to interfere with or hinder anyone whom the Town or the Code Enforcement Officer authorizes to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

Section 12-49A **Notice of Removal.**

Within forty-eight (48) hours of the removal of such junk vehicle, the Code Enforcement Officer shall give notice to the registered owner of the junk vehicle, if known, that the vehicle or motor vehicle was removed, that the vehicle or motor vehicle, has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored and the proper procedure for redeeming the vehicle, including cost of redemption.

Section 12-49B **Redemption of Impounded Vehicles or Motor Vehicles.**

The owner of motor vehicle impounded under the provisions of this chapter may redeem such motor vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment of the actual and reasonable expense of removal plus storage.

Section 12-49C **Penalty; Continuing Violations.**

In addition to the procedures for removal of vehicles, any person who shall violate any of the provisions hereof shall upon conviction be deemed guilty of an offense against the city. Each act in violation of any of the provisions hereof shall constitute a separate offense and may be chargeable as such. Each day's continued violation of any of the provisions hereof shall constitute a separate offense and may be punishable as such as provided by the general penalty contained in this code.

Section 12-50 Reserved.

Article 5 - Dilapidated And Unsecured Buildings; Graffiti

Section 12-51 Definitions .

- A. As used in this Article:
1. "Dilapidated building" means:
 - a. a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public,
 - 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 Zoning Officer or his designee of the municipal governing body to be an unsecured building, as defined by Section 12-54 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 12-54 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 12-52 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 addressee. 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 Zoning Officer or his designee is hereby designated by the Mayor and Town Board of Trustees to carry out the duties of the Mayor and Town Board of Trustees specified in this Article. A hearing shall be held by the Zoning Officer or his designee 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 or his designee may cause the dilapidated building to be torn down and removed. The Zoning Officer or his designee 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 or his designee 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 or his designee. The property owner shall have the right of appeal to the mayor and council from any order of the Zoning Officer or his designee. 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. Effective November 1, 2004, any action to challenge the order of the Zoning Officer or his designee or municipal governing body (provided a written notice of appeal was timely filed with the Town clerk), shall be filed with an appropriate judicial forum within thirty (30) business days from the date of the order.

Section 12-53 Determination of Costs, Lien ; Miscellaneous

A. The Zoning Officer or his designee 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 12-52. 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 mailer. 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 12-54 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 of Trustees 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 or his designee is hereby designated by the mayor and Town Board of Trustees to carry out the following duties of the mayor and Town Board of Trustees. The Zoning Officer or his designee 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 12-52. 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 mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in 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 or his designee pursuant to the provisions of this Section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with subsection 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 of Trustees;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the Town Board of Trustees 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 of Trustees shall apply the following standard: the Town Board of Trustees 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 of Trustees 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 of Trustees, 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 city;

6. After an unsecured building has been boarded and secured, the Town Board of Trustees 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 12-53. 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 mailee. 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 of Trustees from any order of the Zoning Officer or his designee. 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 of Trustees 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.

Section 12-55 Other Powers.

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 12-56 **Exception.**

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

Section 12-57 **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 city. 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 city. If the mayor and Town Board of Trustees 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 of Trustees 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 city.

6. The Town hereby designates the Zoning Officer or his designee 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 of Trustees from the decision of the Zoning Officer or his designee. 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 city, 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 city. 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 12-61 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. 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 council upon an appeal from an offender.

Section 12-62 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 city.

Section 12-63 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.

Section 12-64 Appointment of Code Enforcement Officer.

The Zoning Officer shall appoint the Code Enforcement Officer. The Code Enforcement Officer is authorized to enforce the provisions of the Okarche Municipal Code, as it now or may hereinafter be constituted, including Building Regulations and Codes, Health and Sanitation, "Planning, Zoning and Development", other miscellaneous national and international codes adopted by reference within the previous cited chapters, and other sections of the Code as directed by the Zoning Officer (hereinafter referenced to as "code enforcement violations"). The Code Enforcement Officer shall have the authority to issue code enforcement violations to any person, firm, corporation or any entity who violates such provisions of this Code.