

OSAWATOMIE CITY COUNCIL

REVISED AGENDA

April 24, 2014

6:30 p.m., Memorial Hall

1. Call to order
2. Roll Call
3. Pledge of Allegiance
4. Invocation –
5. Consent Agenda
 - Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action*
 - A. Approve April 24 Agenda
6. Presentations; Comments from the Public
 - A. *Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor.*
7. Public Hearing – None
8. Unfinished Business
 - A. Sewer Project bids
 - B.
9. New Business
 - A. Appointments
 - B. Consider Approval of Fireworks Stand
 - ~~C. Resolution on Termination of Nearman Energy Contract~~
 - D. Discuss Council Scholarship
 - E. Review Draft of Revised Nuisance Ordinances
 - F.
10. Council Reports
11. Mayor's Report
12. City Manager's Report
13. Executive Session
14. Other Discussion/Motions
15. Adjournment

REGULAR MEETING – May 8, 2014

REGULAR MEETING – May 22, 2014



STAFF AGENDA MEMORANDUM

DATE OF MEETING: April 24, 2014

AGENDA ITEM: Construction Bids for Sewer Plant Upgrades

PRESENTER: Don Cawby, City Manager
Brian Kingsley, BG Consultants

ISSUE SUMMARY: On Tuesday the 22nd, we opened the bids for the construction of the sewer plant project. (A summary of the bids are on the following sheet.) The low bidder on the project was Midland Contractors from Topeka with a bid of \$626,000.

Our engineers, BG Consultants, revised their estimate prior to the bid opening and came up with an estimate of \$671,160, an increase of \$237,460 over the original estimate of \$433,700. (The complete project budget is also on a following sheet.) BG Consultants indicated that the majority of the increase was for air handling changes needed in the buildings to handle corrosive gasses and other noxious gas safety issues.

When calculated with the currently known costs, the project is \$27,160 over budget by eliminating all contingency funding. However, with expected savings in the construction budget and also using expected savings in the construction inspection and legal/administrative budgets, the project should fit within the current loan for the project.

Should additional costs or issues arise, we will have to evaluate whether or not to seek an increase in the loan amount or to pay from Sewer Fund reserves.

COUNCIL ACTION NEEDED: The Council needs to award the contract to the low bidder or reject all bids.

STAFF RECOMMENDATION TO COUNCIL: Award the contract to Midland Contractors upon KDHE approval.



City of
Osawatomie
www.osawatomieks.org

Osawatomie City Hall
439 Main Street • PO Box 37
Osawatomie, KS 66064
Phone: (913)755-2146
Fax: (913)755-4164

Osawatomie WWTF Improvements Phase 1
Project #12-1225L
April 22, 2014 at 2:00 pm

Bid Tabulation Summary

BG Consultants	(engineer's estimate)	\$671,160.00
CAS Contractors, LLC	Topeka, KS	\$752,191.00
Crossland Heavy Contractors, Inc.	Kansas City, MO	\$778,497.50
Irvinbilt Constructors Inc.	Chillicothe, MO	\$809,300.00
Mega Industries Corp.	N. Kansas City, MO	\$739,786.00
Midland Contractors	Topeka, KS	\$626,000.00

* All contractors did include, as required:

Addendums

Bid Bond

KDHE completed forms

Osawatomie WWTF Improvements Phase 1

All Amounts in \$

	Original Budget	Revised Budget	Change
Construction:			
Base Work	433,700	626,000	192,300
Contingency	93,520	-	(93,520)
Subtotal	527,220	626,000	98,780
Equipment:			
Barscreen Equipment	176,500	148,900	(27,600)
Grit Removal Equipment	110,000	59,700	(50,300)
Belt Press Equipment	215,000	208,000	(7,000)
Subtotal	501,500	416,600	(84,900)
Subtotal: Construct & Equip	1,028,720	1,042,600	13,880
Other Expenses:			
Design Engineering	107,604	112,904	5,300
Construction Inspection	93,292	93,292	-
Survey	-	8,000	8,000
Legal, Administration, Finance	32,300	32,300	-
Subtotal	233,196	246,496	13,300
TOTAL	1,261,916	1,289,096	27,180
KDHE Principal Borrowed	1,256,925	1,256,925	-
<i>Amount Short/(Long)</i>	<i>4,991</i>	<i>32,171</i>	<i>27,180</i>

CITY OF OSAWATOMIE

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cityclerk@osawatomieks.org

20 14

APPLICATION FOR FIREWORKS STAND PERMIT

Name of Stand Dale & Jo's Discount Fireworks
Location of Stand 1306 6th St. of Storage on site
Applicant's Name Ed Shuy
Address 19027 W 311th St.
City/State/Zip Paola KS 66051
Home Phone No. [redacted] ell [redacted] Business [redacted]
E-mail Address [redacted]
Federal ID No. [redacted] State of KS Tax ID No. [redacted]

I understand and agree to follow the laws of the State of Kansas and the Ordinances of the City of Osawatomie. I have received a copy of City of Osawatomie Code 2010, Chapter 7, Article 3. The application fee does not guarantee issuance of a permit. Final approval is subject to inspection approval at the time of setup.

Applicant's Signature [redacted] Date 04.15.14

Applications for the sale of fireworks shall be filed with the City Clerk between January 1 & May 31 of the year in which the permit is to be effective. Upon submittal of the application with the permit fee, the City Council will consider the application for approval at their next regular scheduled meeting. However, all necessary documents must be received by the City Clerk at least 5 working days before a Council meeting if wanting approval before the May 31 deadline. Those documents are listed below in bold.

FOR OFFICE USE ONLY

Date of Application Received 4-16-14 Receipt # 47483 [1.500405]
Stand Fee \$1,000.00 Check # 5080

Put it to you

on file **Drawing**
 Certificate of Insurance — City of Osawatomie MUST be named as ADDITIONAL INSURED
 na **If located in a tent, proof of flame retardant**
 na **Letter of Permission from property owner (if applicable)**
 na **Letter(s) of Permission from property owner(s) of structures, etc. within 50' (if applicable)**
 na **Electricity Temporary Hookup** Receipt # Check # [3.500801]
 Receipt Copy Given to Utilities

____ Council Approval Date
____ Endorsement of Chief of Police, Fire Chief, Utility Distribution Supervisor & Building Official
(Inspection sheet attached)
____ Permit Approved by City Clerk Signature _____

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20 14

APPLICATION FOR FIREWORKS STAND PERMIT

Name of Stand Eddie's Discount Fireworks
Location of Stand 504 Oscar St., Osa. of Storage 504 Oscar St., Osa.
Applicant's Name Chris & Peaceful Barnett
Address 38764 Edgerton Rd.
City/State/Zip Lane / KS / 66042
Home Phone No. [Redacted] Cell [Redacted] Business Eddie's Discount Fireworks
E-mail Address [Redacted]
Federal ID No. [Redacted] State of KS Tax ID No. [Redacted]

I understand and agree to follow the laws of the State of Kansas and the Ordinances of the City of Osawatomie. I have received a copy of City of Osawatomie Code 2010, Chapter 7, Article 3. The application fee does not guarantee issuance of a permit. Final approval is subject to inspection approval at the time of setup.

Applicant's Signature [Redacted] Date 4-2-14

Applications for the sale of fireworks shall be filed with the City Clerk between January 1 & May 31 of the year in which the permit is to be effective. Upon submittal of the application with the permit fee, the City Council will consider the application for approval at their next regular scheduled meeting. However, all necessary documents must be received by the City Clerk at least 5 working days before a Council meeting if wanting approval before the May 31 deadline. Those documents are listed below in bold.

FOR OFFICE USE ONLY

Date of Application Received 4-11-14 Receipt # 47356 [1.500405]
Stand Fee \$1,000.00 Check # FOB Countercheck

on file **Drawing**
 on file **Certificate of Insurance — City of Osawatomie MUST be named as ADDITIONAL INSURED**

on file **If located in a tent, proof of flame retardant**
 Letter of Permission from property owner (if applicable) Teri Asten
 Letter(s) of Permission from property owner(s) of structures, etc. within 50' (if applicable)
 Electricity Temporary Hookup Receipt # 47356 Check # FOB [3.500801]
 Receipt Copy Given to Utilities

Council Approval Date

Endorsement of Chief of Police, Fire Chief, Utility Distribution Supervisor & Building Official
(Inspection sheet attached)

Permit Approved by City Clerk Signature _____

ORDINANCE NO. _____

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

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

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

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

WHEREAS, The governing body desires to promote the public health, safety of the residents of the city; and

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

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

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

ARTICLE 1. NUISANCE ENFORCEMENT & ADMINISTRATION

- 8-101. PUBLIC OFFICER.** The City Manager shall designate a public officer(s) to be charged with the enforcement of this Chapter.
- 8-102. RIGHT OF ENTRY.** It shall be a violation of this Chapter to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

8-103. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation.

8-104 ENFORCEMENT STANDARDS. No person shall be found in violation of this Chapter unless a public officer, after reasonable inquiry and inspection of the premises, finds evidence of nuisance conditions or other violations declared unlawful as outlined in this Chapter.

8-105 *Reserved for future use.*

8-106. INQUIRY AND COMPLAINTS; INSPECTION.

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

- (1) upon receiving a complaint or complaints that a nuisance exists; or
- (2) the officer personally observes conditions which appear to constitute a nuisance;

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

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

8-107 NOTICE OF VIOLATION; AUTHORITY TO ISSUE NOTICE TO APPEAR. Any person, corporation, partnership or association found by the public officer to be in violation of this Chapter shall be sent a Notice of Violation by the public officer. The Notice of Violation shall state:

- (a) The address where the condition exists; and
- (b) The condition which has caused the violation of this Chapter; and
- (c) The person or entity in violation shall have 10 calendar days from the date of Notice of Violation to alleviate any nuisance violation of this Chapter except an exterior structure nuisance shall have 30 calendar days; or in the alternative,

(1) The person or entity in violation may enter into a written agreement with the City to alleviate the nuisance violation within a specified time limit if the public officer believes an extended period of time is warranted. Failure to eliminate violation under the terms of the agreement waives the right to a hearing before the hearing officer and the person will be served a Notice to Appear in Municipal Court; or

(2) That the person or entity in violation may, within 10 calendar days from the date of the Notice of Violation, request in writing for a hearing on the matter as provided in Section 8-110.

(d) That failure to alleviate the condition will result in either,

- (1) abatement of the condition by the city with the costs assessed

against the property under Section 8-112 or

(2) the person being served a Notice to Appear in Municipal Court for adjudication of the violation.

8-108 SERVICE OF NOTICES.

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

(1) By personal delivery at such person's residence, with an individual 18 years of age or older being a member of the family or cohabitant, or at such person's place of business with an employee of the business; or

(2) By certified mail, return receipt requested to the person in violation and also to the owner if the City abatement is assessed to the property; or

(3) If the owner or the agent of the owner of the property has failed to accept delivery, or has otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(4) If in the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(b) In the case of notices issued for grass or weed nuisances, the City shall only provide one notice for each calendar year. All subsequent violations after the first notice, whether abated by the person in violation or by the City, will not require further notice in that calendar year before the City abates the grass or weed nuisance.

8-109 *Reserved for future use.*

8-110. HEARING.

(a) If a hearing is requested within the 10 day period as provided in Section 8-107, such request shall be made in writing to the City Council and provided to the City Clerk. Failure to make a timely request for a hearing shall constitute a waiver of the person's or entity's right to contest the findings of the public officer.

(b) The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person or entity shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be

represented by counsel, and the person, or entity, and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence.

(c) Upon conclusion of the hearing, the findings of the City Council or its designated representative shall be prepared in resolution form, adopted by the City Council, and the resolution shall be served upon the person in the manner provided in section 8-108.

8-111 MUNICIPAL COURT; PENALTY. The public officer or City Prosecutor may file a complaint in the Municipal Court and serve a Notice to Appear against any person who receives a Notice of Violation and does not correct the violation(s) within the allotted time or against any person that has failed under the terms of an agreement to eliminate the nuisance. Upon such complaint in the Municipal Court, any person found to be in violation of this Chapter shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this Chapter, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. If upon conviction of a nuisance herein under and it appears to the court that the nuisance complained of is continuing, the court may enter such order as is shall deem appropriate to cause the nuisance to be abated.

8-112 COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

8-113 EMERGENCY ABATEMENT. In order to enforce the provisions of this Chapter, when the public officer finds and determines that the severity of the violation warrants immediate action, the officer may cause the clean up or abate the violation thereof by any appropriate means. The cost of such emergency cleanup or abatement may be recovered by the City as provided in this Article. Such

emergency cleanup or abatement will not relieve the person of further action which may be taken by the City including but not limited to, liability for any violations of this Chapter or any other applicable provisions of state law and local ordinances.

8-114 *Reserved for future use.*

8-115 **CONSTRUCTION.** Nothing in this Article shall be constructed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this Article shall be in addition to the supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance.

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

ARTICLE 2. HEALTH & PROPERTY NUISANCES

8-201. DEFINITIONS. The words and phrases listed below when used in this Article shall have the following meanings:

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

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

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

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

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

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

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

(h) Garbage- includes all kitchen and table refuse and every accumulation of animal, vegetable and other material that attends the preparation, consumption,

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

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

(j) Hearing Officer- the person appointed by the Governing Body to conduct the hearing pursuant to this Article.

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

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

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

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

(o) Public place- is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, spaces, grounds and buildings

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

(q) Residential- used or intended to be used primarily for human habitation.

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

(s) Structure- anything constructed or erected which requires location on the

ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

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

(u) Weathered- deterioration caused by exposure to the elements.

(v) Weeds - as used herein, means any of the following:

(1) Brush and woody vines shall be classified as weeds;

(2) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Weeds which bear or may bear seeds of a downy or wingy nature.

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

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

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

8-202 HEALTH NUISANCES. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation as follows:

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

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

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

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

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

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

(2) Unfenced or unmaintained pools, unused basement and excavations; any open cistern, cesspool, well, or other dangerous openings. All such places shall be billed, securely covered or fenced in such a manner as to prevent injury to any person and any cover shall be of such a design, size and weight that the cover

cannot be removed by children.

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

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

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

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

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

(k) Animals affected with disease or animal disease carriers, when the disease is one that may adversely affect the health of humans or other animals.

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

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

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

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

8-203 YARD NUISANCE. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood, or the city. This shall include conditions which are not readily visible from any public place or from any surrounding private. A yard nuisance shall include, but not be limited to, the scattering over or the leaving, depositing or accumulation on the yard of any of the following:

(a) Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, boxes, barrels, drums, packing crates or pallets, salvage materials, junk or refuse, garbage, trash, litter or other materials except building materials to be used within ninety (90) days for construction on the premises if properly authorized by a current building permit and except properly maintained compost piles as defined by this Article shall not constitute a nuisance.

(b) Indoor furniture, appliances, mattresses, bedding, stoves, refrigerators, televisions, sinks, lawn mowers, shopping carts, or other such items of person property or general household items.

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

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

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

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

(g) Storing piles of dirt, rock gravel, sand, concrete, and other similar materials for more than ninety (90) days unless the materials are part of a project for which a building permit has been issued.

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

(i) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes.

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

8-204 EXTERIOR STRUCTURE NUISANCES. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. This should not include conditions which are not readily visible from any public place or from any surrounding private property. Structure exterior nuisance conditions shall include, but not limited to, deteriorated, dilapidated, or unsightly:

(a) exteriors of any structure;

(b) exteriors of any accessory structure; or

(c) fences, walls, or retaining walls;

(d) refuse or personal property placed on rooftops;

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

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

8-205. NOXIOUS WEEDS.

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

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk

(nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*).

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

ARTICLE 3. VEHICLES ON PRIVATE PROPERTY

8-301 DEFINITIONS. The following words and phrases shall be defined as follows for the purpose of this Article:

(a) Abandoned or Inoperable Vehicle- means:

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

(2) The absence of a current valid registration plate upon such vehicle permitting that vehicle to be operated on the public streets and highways of the State of Kansas, unless the vehicle has a non-highway vehicle title issued solely because the vehicle was not manufactured for street use, or

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

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

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

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

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

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

(f) Hearing Officer- mans a person appointed by the Governing Body to conduct the hearing pursuant to this Article.

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

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

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

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

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

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

(m) Section- means the stated section of the Osawatomie Municipal Code

(n) Trailers- means a utility trailer having a gross weight less than fifteen hundred (1500) pounds.

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

(p) Vehicle owner- means the person, partnership or corporation registered as the owner of a particular vehicle.

8-303 ABANDONED OR INOPERABLE VEHICLES.

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

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

(c) The provision of this section shall not apply to any person, firm or

corporation, or their agent, who is conducting a business enterprise concerned with repair, sale or storage of vehicles in compliance with the existing zoning ordinance.

8-304 VEHICLE PARKING.

(a) No vehicle owner, property owner, resident or tenant shall allow a vehicle to be parked or stored adjacent to any public street on any surface other than a designated driveway or a parking area. Adjacent to any public street in residential areas, all vehicles (except RVs and trailers as provided herein) shall be parked on the designated driveway relating to the garage or carport or designated parking areas for multifamily dwellings. In areas where there are no garages or carports, vehicles may be parked on the designated driveway constructed perpendicular to the street curb or surface to at least three (3) feet from the residence or the building setback. Such designated driveway should be located on the half of the lot closest to an interior lot line unless there are special circumstances approved by the building official.

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

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

(1) Any improvements in this area, including parking areas, will be subject to a site plan review and must meet the design criteria for hard surface on-street parking areas detailed in the City of Osawatomie Zoning Regulations. Any such parking constructed would be considered part of the street and therefore will be considered public parking.

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

(e) For residential lots, the total outside parking or storage of all allowable items and types of vehicles and trailers is 10% of the total lot area or 1400 square feet whichever is less at a single or duplex family residence. Such vehicle parking shall not exceed 50% of the open space of the lot in the front, side or rear yards up to the maximum allowable parking or storage space. All front yard parking areas shall be directly in front any attached or unattached garage area and shall not otherwise be located directly in front of the primary structure.

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

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

(1) If parked in the front yard RVs or trailers must be at right angles (not parallel) to the street on a designated driveway not exceeding 24 feet in width. If the property has more than one driveway, then RVs or trailers must be at least

three (3) feet from any side or rear lot line, if parked on a side yard facing a street it must be parked on the half of the side yard closest to the residence.

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

(4) No RV may be used for overnight accommodation on a public right-of-way.

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

8-305 COMERCIAL OR FARM OR LARGE VEHICLES IN RESIDENTIAL DISTRICTS.

(a) It shall be unlawful for any person to park any vehicle which exceeds eight (8) feet in width, or twenty (20) feet in length, or eight (8) feet in height, on any street in any residence district for more than two (2) hours, except when actively loading and/or unloading or within the performance of a service to or upon property abutting the area where the vehicle is parked.

(b) No heavy equipment or vehicle rated above three ton or farm machinery or farm implement shall be stored or parked within any residential district unless parked within an enclosed building or carport. Provided, however that this section shall not prevent the temporary location of such a vehicle or equipment on such a property while engaged in a delivery, pick-up or service to the property. And further provided, except parking on a temporary basis for not more than a single occurrence not exceeding twenty-four (24) hours during any thirty (30) day period

8-306 RECREATION VEHICLES; PARKING ON STREET. No motorized self-propelled camper, non-motorized travel trailer, or boat or canoe when on a trailer, shall be parked on a public street for a period of time exceeding 48 hours, and when so parked, shall be located no nearer to an intersecting street than 100 feet, from the intersecting curb lines of the two streets nor located so as to obscure any driver's view of approaching traffic. No non-motorized travel trailer or boat or canoe, when on a trailer, shall be left unattached when parked on a public street.

8-307 LARGE AND RECREATIONAL VEHICLE PARKING. No motorized self-propelled camper, non-motorized travel trailer, recreational vehicle or vehicle or trailer combination of vehicle and trailer which exceeds eight (8) feet in width, or twenty (20) feet in length, or eight (8) feet in height shall be parked at any time in the following locations except when actively loading and/or unloading:

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

8-308 *Reserved for future use.*

8-3079. DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE.

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

(b) Any person attempting to recover a motor vehicle impounded as provided

in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.

Section 3: That Section 8-505 of Article Five of Chapter Eight of the Code of the City of Osawatomie is hereby amended to read as follows:

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

Section 4. Chapter 13, Article 2 of the Code of the City of Osawatomie is hereby amended by adding new section 216 which shall read as follows:

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

Section 5. EXISTING ARTICLES AND SECTIONS REPEALED. Article One, Article Two, Article Three, Article Four, and Section 8-505 of Article Five of Chapter Eight, of the Code of the City of Osawatomie as adopted prior to the passage of this Ordinance are hereby repealed.

Section 6. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this 24th day of May, 2014.

APPROVED AND SIGNED by the Mayor.

L. Mark Govea
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk

CHAPTER VIII. HEALTH AND WELFARE

- Article 1. Board of Health
- Article 2. Health Nuisances
- Article 2A. Environmental Code
- Article 3. Junked Motor Vehicles on Private Property
- Article 4. Weeds
- Article 5. Property Maintenance Code
- Article 6. Rodent Control
- Article 7. Insurance Proceeds Fund
- Article 8. Emergency Actions: Threatened
Releases of Material

ARTICLE 1. BOARD OF HEALTH

8-101. **BOARD OF HEALTH CREATED.** The board of health shall consist of a city health officer, who shall be a practicing doctor of medicine and two additional members who shall be members of the governing body. The city health officer and the two additional members of the board of health shall be appointed annually by the mayor at the first regular meeting of the governing body in April of each year, to serve for one year terms subject to confirmation by the city council; provided, that a member of the governing body appointed to the board of health shall have no right to vote for or against his or her own confirmation. The board shall adopt such rules and regulations as may be necessary to guide its operations. The city clerk shall be secretary of the board but shall have no vote. He or she shall preserve its records, rules and regulations and shall issue all orders and notices which may be required by ordinance or order of the board. (Code 1977, 8-101; Code 1998)

8-102. **CITY HEALTH OFFICER; DUTIES.** The city health officer shall:

- (a) Cause health investigations and inspections to be made as required by the laws of Kansas and of the city;
- (b) Make recommendations to the board respecting the improvement of health of the inhabitants of the city;
- (c) Make all health reports required by the State Department of Health and Environment, Division of Health;
- (d) Prepare an annual health report of the city for submission to the governing body;
- (e) Perform such other duties as may be required of him or her under the laws of the State of Kansas or of the city. (Code 1998)

ARTICLE 2. HEALTH NUISANCES

- 8-201. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
 - (b) All dead animals not removed within 24 hours after death;
 - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
 - (d) All stagnant ponds or pools of water;
 - (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
 - (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
 - (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
 - (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city. (K.S.A. 21-4106:4107; Ord. 3410, Sec. 1; Code 1977, 8-301, 8-401, 8-403, 8-516; Code 2008)
- 8-202. PUBLIC OFFICER. The city manager shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 3410, Sec. 2; Code 2008)
- 8-203. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 3410, Sec. 3; Code 2008)
- 8-204. RIGHT OF ENTRY. It shall be a violation of this code to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 3410, Sec. 4; Code 2008)
- 8-205. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-201 an order stating the violation. The order shall be served on the owner or

agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2008)

8-206. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-201. The order shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from the receipt of the order to abate the condition(s) in violation of section 8-201; provided, however, that the governing body [or its designee named in section 8-205] shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-201; or,

(b) He, she or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208. (Ord. 3410, Sec. 6; Code 2008)

8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed \$100.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 3410, Sec. 7; Code 2008)

8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-207, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-206, the public officer may present a resolution to the

governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2008)

8-209. HEARING. If a hearing is requested within the 10 day period as provided in section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-208. (Ord. 3410, Sec. 9; Code 2008)

8-210. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner

provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2008)

ARTICLE 2A. ENVIRONMENTAL CODE

8-2A01. TITLE. This article shall be known as the "Environmental Code." (Code 2008)

8-2A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 2008)

8-2A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2008)

8-2A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:

(1) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."

(2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.

(3) Number - Words of number shall be construed to mean singular or plural, as may be applicable.

(4) Tense - Words of tense shall be construed to mean present or future, as may be applicable.

(5) Shall - The word shall is mandatory and not permissive. (Code 2008)

8-2A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:

(1) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.

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

(3) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.

(4) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking,

peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

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

(6) Garbage - without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

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

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

(9) Refuse - garbage and trash.

(10) Residential - used or intended to be used primarily for human habitation.

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

(12) Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(13) Weathered - deterioration caused by exposure to the elements.

(14) Yard - the area of the premises not occupied by any structure.

(Code 2008)

8-2A06. PUBLIC OFFICER. The City Manager shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2008)

8-2A07. ENFORCEMENT STANDARDS. No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2008)

8-2A08. UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the

city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

(2) abandoned motor vehicles; or

(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 2008)

8-2A09.

ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-2A09 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

(1) The condition which has caused the violation of this article; and

(2) That the person in violation shall have:

(A) 10 days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or;

(B) 45 days from the receipt of the order to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above,

(C) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in section 8-2A12 a hearing before the governing body or its designated representative on the matter; and;

(c) Provided, however, that the governing body [or its designee named herein] shall grant one or more extensions to the time periods stated in subsections (2) and (3), above, if the owner or agent of the property demonstrates

that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-2A10 and/or abatement of the condition by the city according to section 8-2A11 with the costs assessed against the property under section 8-2A14. (K.S.A. 12-1617e; Code 2008)

8-2A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 8-2A09 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2008)

8-2A11. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-2A14.

A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a

nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2008)

8-2A12. HEARING. If a hearing is requested within the 10 day period as provided in section 8-2A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-2A11. (Code 2008)

8-2A13. APPEALS. Any person affected by any determination of the governing body under sections 8-2A11:2A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2008)

8-2A14. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2008)

8-2A15. CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2008)

ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

- 8-301. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:
- (a) Serves as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
 - (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
 - (c) Are a ready source of fire and explosion;
 - (d) Encourage pilfering and theft;
 - (e) Constitute a blighting influence upon the area in which they are located;
 - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures. (Code 2008)
- 8-302. DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:
- (a) Inoperable - means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
 - (b) Vehicle - means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time. (Code 2008)
- 8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.
- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
 - (b) The provisions of this article shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building;
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
 - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance. (Code 1977, 8-601:602; Code 2008)

- 8-304. PUBLIC OFFICER. The governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2008)
- 8-305. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 2008)
- 8-306. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2008)
- 8-307. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2008)
- 8-308. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person, corporation, partnership or association that
- (a) He, she or they shall have 10 days from receipt of the order to abate the condition(s) in violation of section 8-303; or
- (b) He, she or they have 10 days from receipt of the order to request a hearing before the governing body or its designated representative of the matter as provided by section 8-312;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310. (Code 2008)
- 8-309. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a

complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2008)

8-310. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been sent pursuant to section 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-308, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-313. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;
(b) Service by certified mail, return receipt requested; or
(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2008)

8-311. DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE. (a) Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended.

(b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle. (Code 2008)

8-312. HEARING. If a hearing is requested within the 10 day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in section 8-310. (Code 2008)

8-313. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2008)

ARTICLE 4. WEEDS

- 8-401. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Ord. 3433, Sec. 1; Code 2008)
- 8-402. DEFINITIONS. Weeds - as used herein, means any of the following:
- (a) Brush and woody vines shall be classified as weeds;
 - (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
 - (c) Weeds which bear or may bear seeds of a downy or wingy nature.
 - (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
 - (e) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height. (Ord. 3433, Sec. 2; Code 2008)
- 8-403. PUBLIC OFFICER; NOTICE TO REMOVE. (a) The city manager shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.
- (b) The notice to be given hereunder shall state:
 - (1) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;
 - (2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;
 - (3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper;
 - (4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) that no further notice will be given during the current calendar year prior to the removal of weeds from the property; and,

(7) that the public officer should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this article. (Ord. 3433, Sec. 3; Code 1977, 8-302; Code 2008)

8-404.

ABATEMENT; ASSESSMENT OF COSTS. (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified section 8-403, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f; Ord. 3433, Sec. 4; Code 2008)

8-405.

RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Ord. 3433, Sec. 5; Code 2008)

8-406.

UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Ord. 3433, Sec. 6; Code 2008)

8-407. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*). (K.S.A. 2-1314; Ord. 3433, Sec. 7; Code 2008)

ARTICLE 5. PROPERTY MAINTENANCE CODE

8-501. INCORPORATION OF INTERNATIONAL PROPERTY MAINTENANCE CODE; AMENDMENTS AND DELETIONS. There is incorporated by reference, for the purpose of adopting regulations, provisions, terms, and specifications, for the control of property maintenance within the City and growth areas of Osawatomie; the 2006 "International Property Maintenance Code", dated January 2006, as published by the International Code Council, Inc., excepting only such parts or portions thereof as are specifically deleted or amended and including such new and additional provisions added to said code herein after referred to as the 2006 Property Maintenance Code. Not less than one (1) copy of said 2006 Property Maintenance Code shall be marked "Official Copy as Adopted by Ordinance No.3 637", to which shall be attached a copy of the ordinance codified herein, and filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours. (Ord. 3637, Sec. 1; Code 2008)

8-502. ADDITIONS, DELETIONS AND AMENDMENTS TO THE 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE. The following additions, deletions and amendments to the 2006 International Property Maintenance Code are hereby made:

(a) Additions to the 2006 IPMC:

(1) Section 106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Per day fines for violating any section of this code shall be not less than \$50.00 and not more than \$100.00.

(2) Section 111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Building Code Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not frilly apply, or the requirements of this code are adequately satisfied by other means. Applications for appeal shall be accompanied by a non-refundable fee of \$50.00.

(b) Deletions to the 2006 IPMC:

(1) Section 304.14 - Insect Screens is hereby deleted. The relevant section(s) of Osawatomie's building codes shall take precedence.

(2) Section 306 - Handrails and Guardrails is hereby deleted. The relevant section(s) of Osawatomie's building codes shall take precedence.

(3) Section 404.6 - Efficiency Unit is hereby deleted. The relevant section(s) of Osawatomie's building codes shall take precedence.

(4) Section 602.4 - Occupiable work spaces is hereby deleted. The relevant section(s) of Osawatomie's building codes shall take precedence.

(5) Section 704 - Fire Protection Systems is hereby deleted. The relevant section(s) of Osawatomie's building codes shall take precedence.

(c) Amendments to the 2006 IPMC:

(1) Section 101.1 - Title. These regulations shall be known as the "Property Maintenance Code of the City of Osawatomie", hereinafter referred to as "this code."

(2) Section 302.4 - Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12"). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annuals plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner responsible for the property.

(3) Section 602.3 - Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from January 1 to December 31 to maintain a temperature of not less than 68 degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms.

(4) Section 702.4 - Emergency Escape Openings is hereby amended to read:

Section 702.4 - Emergency Escape Openings. Required emergency escape openings shall be maintained. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. (Ord. 3637, Sec. 2; Code 2008)

8-503. PENALTY FOR VIOLATING PROVISIONS OF THE CITY'S BUILDING CODES. Whenever any individual, firm, corporation or other entity is found to be in violation of the city's building codes as adopted herein and by Ordinance No. 3622 and amendments thereto, and the individual, firm, corporation or other entity refuses to make necessary corrections or modifications as directed by the Chief Building Inspector or their designee, the individual, firm, corporation or other entity shall be fined no more than \$500.00 per day, for each day the violation is allowed to continue. The Municipal Court Judge shall be responsible for determining the severity of the violation, taking into consideration any testimony or other recommendation(s), written or otherwise, of the Chief Building Inspector or their designee. (Ord. 3637, Sec. 4; Code 2008)

8-504. SEVERABILITY. In the event any clause, sentence, paragraph, or section of this ordinance or any application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this ordinance and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the controversy in which judgment shall have been rendered and the persons or circumstances involved. It is hereby declared to be the intent that this

ordinance and the 2006 Building Codes and the 2006 IPMC would have been adopted had such provisions not been included. (Ord. 3637, Sec. 5; Code 2008)

8-505. INTERACTION BETWEEN THE 2006 BUILDING CODES, THE 2006 PROPERTY MAINTENANCE CODE AND THE CITY OF OSAWATOMIE'S NUISANCE ORDINANCE No. 3541. In the event any conflict exists between the 2006 Property Maintenance Code and the 2006 Building Codes as adopted by Ordinance No. 3662, the 2006 Building Codes shall take precedence. When the 2006 Property Maintenance Code is in conflict with the City's Nuisance Code as adopted by Ordinance No. 3541, the 2006 Property Maintenance Code shall take precedence. (Ord. 3637, Sec. 6; Code 2008)

ARTICLE 6. RODENT CONTROL

8-601. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

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

(b) Occupant. - The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

(c) Owner. - The owner of any building or structure, whether individual, firm, partnership or corporation.

(d) Rat harborage. - Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.

(e) Rat-stoppage. - A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing. (Code 2008)

8-602. BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 2008)

8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 2008)

8-604. FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2008)

8-605. REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-

stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2008)

8-606. NOTICE TO ERADICATE RATS. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2008)

8-607. CONDITIONS CONDUCIVE TO HARBORAGE OF RATS. (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

(b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.

(c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.

(d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 2008)

8-608. INSPECTIONS. The building inspector is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2008)

CITY OF OSAWATOMIE - BUDGET REPORT

DATE: Mar 2014	BUDGETED	REIMBS	EXPENDITURES	UNEN BALANCE
GENERAL				
Administration	650,954.00		156,706.15	494,247.85
Sports Complex	-		-	-
Public Safety	923,434.00	1,830.00	222,750.59	702,513.41
John Brown Cabin	39,752.00		9,123.63	30,628.37
Public Works	255,808.00		62,234.38	193,573.62
Swimming Pool	17,870.00		307.81	17,562.19
Cemeteries	108,683.00		23,647.92	85,035.08
Parks & Lakes	-		-	-
Municipal Court	116,901.00		23,187.40	93,713.60
Levees & Storm Water	12,335.00		1,170.26	11,164.74
Library	141,979.00		33,064.34	108,914.66
TOTAL	2,267,716.00	1,830.00	532,192.48	1,737,353.52
WATER				
Administration	298,882.00		59,889.58	238,992.42
Water Treatment	342,060.00		50,860.19	291,199.81
Water Distribution	262,524.00		70,668.90	191,855.10
TOTAL	903,466.00	-	181,418.67	722,047.33
ELECTRIC				
Administration	1,081,334.00		248,809.57	832,524.43
Electric Production	2,437,824.00		473,832.02	1,963,991.98
Elect Transmission	623,954.00		118,609.81	505,344.19
TOTAL	4,143,112.00	-	841,251.40	3,301,860.60
EMPLOYMENT BENEFIT	705,972.00	37,526.88	229,778.13	513,720.75
REFUSE	379,700.00		66,085.10	313,614.90
LIBRARY	111,854.00		885.82	110,968.18
RECREATION	783.00		3,339.82	(2,556.82)
RURAL FIRE	43,720.00		10,468.24	33,251.76
INDUSTRIAL	62,785.00		4,172.41	58,612.59
REVOLVING LOAN	-			-
SPECIAL PARKS & REC	255,766.00	190.00	42,776.29	213,179.71
ST IMPROVEMENT	182,000.00	-	8,882.58	173,117.42
BOND & INTEREST	808,495.00		72,332.50	736,162.50
PUBLIC SAFETY EQUIP.	9,847.00		-	9,847.00
FIRE INS PROCEEDS	15,500.00		-	15,500.00
SEWER	893,880.00		175,146.80	718,733.20
REC EMP BENEFITS	80.00		417.93	(337.93)
GOLF COURSE	255,122.00	283.04	36,193.35	219,211.69
SPECIAL REV (FIRE EQUIP)			-	-
SPECIAL REVENUE (911)	9,897.00		-	9,897.00
LLEBG GRANT			-	-
TOURISM	74,380.00	-	2,870.26	71,509.74
EVIDENCE LIABLITIY			1,461.50	(1,461.50)
CAPITAL - GENERAL	145,000.00		7,019.00	137,981.00
CAPITAL IMP. - STREET	-		-	-
CAPITAL IMP - SEWER	-		32,771.00	(32,771.00)
CAPITAL IMP - GRANTS	-		3,292.07	(3,292.07)
CAFETERIA 125 #50	56,000.00		6,699.11	49,300.89
COURT ADSAP #51	3,000.00		-	3,000.00
COURT BONDS #52	15,000.00		4,125.00	10,875.00
FOREITURES #53	-		-	-
OLD STONE CHURCH #54	1,000.00		-	1,000.00
PAY PAL #55	186.00		-	186.00
GRAND TOTAL	11,344,261.00	39,829.92	2,263,579.46	9,120,511.46

CITY OF OSAWATOMIE - CASH FLOW REPORT

Date: March 2014	BEGINNING BALANCE	REVENUE	EXPENDITURES	CASH BALANCE	ENCUMBERANCES (ORD.)	CASH BALANCE 3/31/2014
GENERAL OPERATING	244,184.93	757,254.98	530,362.48	471,077.43		471,077.43
WATER	210,575.61	201,957.79	181,418.67	231,114.73		231,114.73
ELECTRIC	520,740.79	1,093,411.48	841,251.40	772,900.87		772,900.87
EMPLOYEE BENEFIT	20,523.22	363,305.76	192,251.25	191,577.73		191,577.73
REFUSE	5,510.67	98,930.92	66,085.10	38,356.49		38,356.49
LIBRARY	98,394.18	10,312.03	885.82	107,820.39		107,820.39
RECREATION	-	3,339.82	3,339.82	-		-
RURAL FIRE	4,936.48	3,826.40	10,468.24	(1,705.36)		(1,705.36)
INDUSTRIAL	35,121.46	19,586.81	4,172.41	50,535.86		50,535.86
REVOLVING LOAN	72,758.43		-	72,758.43		72,758.43
SPECIAL PARKS & REC	90,531.42	55,039.47	42,586.29	102,984.60		102,984.60
STREET IMPROVEMENTS	122,076.34	28,284.33	8,882.58	141,478.09		141,478.09
BOND & INTEREST	88,616.74	246,468.68	72,332.50	262,752.92		262,752.92
PUBLIC SAFETY EQUIP.	9,068.46	5.82	-	9,074.28		9,074.28
FIRE INS PROCEEDS	0.84	-	-	0.84		0.84
SEWER	386,610.44	207,805.06	175,146.80	419,268.70		419,268.70
RECREATION BENEFIT	-	417.93	417.93	-		-
GOLF COURSE	28,413.89	45,079.34	35,910.31	37,582.92		37,582.92
SPECIAL REVENUE (911)	9,897.41	-	-	9,897.41		9,897.41
LLEBG GRANT	-	-	-	-		-
TOURISM	7,979.00	17,470.94	2,870.26	22,579.68		22,579.68
EVIDENCE LIABILITY	14,361.29	-	1,461.50	12,899.79		12,899.79
CAPITAL - GENERAL	210,479.32	25,000.00	7,019.00	228,460.32		228,460.32
CAPITAL IMP. - STREETS	19,158.54	-	-	19,158.54		19,158.54
CAPITAL IMP - SEWER	(301,209.31)	320,333.81	32,771.00	(13,646.50)		(13,646.50)
CAPITAL IMP - GRANTS	260,004.80	186.27	3,292.07	256,899.00		256,899.00
CAFETERIA 125 # 50	14,098.88	18,605.68	6,699.11	26,005.45		26,005.45
COURT ADSAP # 51	7,661.00	-	-	7,661.00		7,661.00
COURT BONDS # 52	5,883.86	2,807.00	4,125.00	4,565.86		4,565.86
FORFEITURES # 53	257.29	-	-	257.29		257.29
OLD STONE CHURCH # 54	-	-	-	-		-
PAYPAL # 55	95.65	-	-	95.65		95.65
TOTALS	2,186,731.63	3,519,430.32	2,223,749.54	3,482,412.41	-	3,482,412.41