

## CHAPTER VIII. HEALTH AND WELFARE

Article 1. Board of Health

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### ARTICLE 1. BOARD OF HEALTH

- 8-101. **BOARD OF HEALTH.** A board of health may be created by the mayor, by and with the consent of the council whenever he or she deems it necessary. The board may consist of three members of the city council to be appointed by the mayor annually at the time officers of the city are appointed and the city health officer, if one is appointed under section 8-104 of this article. (Code 1961, 8-101; Code 1986)
- 8-102. **ORGANIZATION MEETINGS.** The board of health shall organize annually following its appointment, by the election of a chairperson, vice chairperson and treasurer. The city clerk shall be ex officio secretary of the board and shall keep and preserve its records and issue such orders and notices as the board may direct. The board may adopt suitable rules governing the calling and holding of its meetings and the transaction of its affairs. Meetings may be held at any time upon the call of the chairperson or in his or her absence by the vice chairperson or secretary and a quorum to do business shall consist of two members. The board may adopt such other regulations as may be authorized and required for performance of its duties and to safeguard the health of the inhabitants of the city. (Code 1961, 8-102)
- 8-103. **BOARD OF HEALTH DUTIES.** It shall be the duty of the board of health or its authorized member to make or cause to be made inspections of all places or conditions within the jurisdiction of the board and deemed to be hazardous to the health of the inhabitants of the city and to serve such notices or orders as may be required or authorized by ordinances of the city and the laws of Kansas to correct or remedy such conditions or to remove or abate any health nuisance in accordance with the order of the board. All actions of the board of health shall be reported in writing at the next regular meeting or the governing body of the city together with its recommendations. (Code 1961, 8-103)
- 8-104. **HEALTH OFFICER.** The mayor, by and with the consent of the council, may appoint a health officer whenever he or she deems it necessary to administer the laws and ordinances of the city and laws of the State of Kansas relating to health, subject to approval of the city board of health. (Code 1961, 8-104)

### ARTICLE 2. HEALTH NUISANCES

- 8-201. **NUISANCES DEFINED.** Nuisances, as used in this article, include without limitation:

- (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 ordinances of the city.
- (i) 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 code; or incapable of moving under its own power; or in a junked or wrecked condition.

(Code 1986)

8-202. CONTROL OF WEEDS. (a) 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.

b. Definitions.

i. "Calendar Year" as used herein, means that period of time beginning January 1st and ending December 31st of the same year.

ii. "Weeds" as used herein, means any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and indigenous 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; and

(5) Weeds and indigenous 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 eight inches in height.

c. **Public Officer; Notice to Remove.** The Mayor shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an assistant authorized by the public officer shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by mail or by personal service, once per calendar year. Such notice shall include the following:

- i. That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
- ii. That the owner, occupant or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.
- iii. That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.
- iv. That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.
- v. That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and if it is not paid, it will be added to the property tax as a special assessment.
- vi. That no further notice shall be given prior to removal of weeds during the current calendar year.
- vii. That the public officer should be contacted if there are any questions regarding the order.
- viii. That in addition to or in lieu of abatement the city may file a complaint in Municipal Court seeking enforcement of this ordinance.

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 section.  
(Ordinance 948 – 4/03/2006)

d. Abatement; Assessment of Costs.

- i. Upon the expiration of 10 days after receipt of the notice required by subsection (c), and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of subsection (a), the public officer or an authorized assistant or a third party contractor designated by the public officer shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
- ii. The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

- ii. If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

*(Ordinance 959 – 7/09/2007. Ordinance Supplemental to Other Nuisance Ordinances. That §8-202, as amended by this Ordinance, shall be deemed supplemental to and not in replacement of §§8-201, 8-203, and 8-204.)*

e. 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 ordinance.

f. 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 an ordinance violation.

g. Noxious Weeds.

- i. Nothing in this ordinance 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.
- ii. For the purpose of this section, 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*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*).
- h. The City of Cimarron may also enforce this Section by filing a complaint in municipal court. Any person found guilty of failing to comply with §8-202(a) within the notice period specified in §8-202(c)(ii) shall be assessed court costs and may be fined not less than \$25 nor more than \$500 per occurrence. Each day in which a person does not comply with this Section after the applicable notice period shall constitute a separate occurrence. (Ordinance 959 – 7/09/2007)

8-203. ABATEMENT OF NUISANCES. Whenever the Chief of Police, Fire Chief, health officer, or any member of the governing body shall file with the city clerk a written statement that a nuisance exists within the city, describing the nuisance and where located, the city clerk shall issue a notice requiring the owner or agent of the owner to request a hearing before the governing body within five days or remove and abate from the premises the thing or things therein described within a period of time, not exceeding 10 days, to be specified in the notice. Notice shall be mailed to the owner or agent at his or her last known address. (Code 1986)

8-204. SAME; CITY MAY ABATE. If the owner, agent or occupant shall fail to abate the nuisance within the time stated in the notice, the chief of police or other city officer designated by the governing body, may proceed to have the nuisance abated from the lot or parcel of ground and shall report the cost thereof to the city clerk. The cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided for in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1986)

### ARTICLE 3. JUNKED, ABANDONED VEHICLES

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 such vehicles:

- (a) Serve 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 block access for fire equipment to adjacent buildings and structures.

Section 8-302. DEFINITIONS. As used in this ordinance, 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.

8-303. MOTOR VEHICLE NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to create, 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, et seq., as amended; or which is parked in violation of any city ordinance; or which is incapable of moving under its own power; or which is 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; or
  - (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 section shall not apply to:
  - (1) Any motor vehicle which is enclosed in a garage or other building;

- (2) To the lawful and authorized parking or storage of a vehicle operable 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.

8-304. **PUBLIC OFFICER.** The Chief of Police of his or her duly authorized agent is hereby designated as the enforcing officer of the city and charged with the administration and enforcement of this ordinance.

8-305. **COMPLAINTS, INQUIRY AND INSPECTION.** The enforcing officer shall make inquiry and inspection of premises upon receiving a complaint alleging that a motor vehicle nuisance exists or is informed that a motor vehicle nuisance may exist by the board of health or the fire chief. The enforcing officer may also make such inquiry and inspection when he or she observes conditions, which appear to constitute a motor vehicle nuisance. Upon making any inquiry and inspection, the enforcing officer shall make a written report of findings.

8-306. **RIGHT OF ENTRY.** It shall be a violation of this ordinance to deny the enforcing 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 motor vehicle nuisance exists.

8-307. **NOTICE.** Any person found by the enforcing officer to be in violation of §8-303 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner of his or her agent in charge of the property is a resident of the city, the notice shall be personally served by the enforcing officer or another law enforcement officer.

8-308. **SAME; CONTENTS.** The notice shall state the condition(s) which is (are) in violation of §8-303. The notice shall also inform the person that:

- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of §8-303; or
- (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by §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 §8-309 and/or abatement of the condition(s) by the city as provided by §8-310.

8-309. **FAILURE TO COMPLY, PENALTY.** Should the person fail to comply with the notice to abate the motor vehicle nuisance or to request a hearing, the enforcing officer may file

a complaint in Cimarron Municipal Court against such person and upon conviction of any violation of provisions of §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.

8-310. ABATEMENT. In addition to, or as an alternative to prosecution as provided in §8-309, the enforcing officer may seek to remedy violations of this ordinance in the following manner. If a person to whom a notice has been sent pursuant to §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 §8-308, the enforcing officer may present or cause to be presented a resolution to the governing body for adoption authorizing the enforcing 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 motor vehicle nuisance was located as provided in §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 restricted mail, postage prepaid, 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 enforcing 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.

8-311. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from private property pursuant to this ordinance shall be as provided by K.S.A. 8-1101, et seq., as amended.

8-312. HEARING. If a hearing is requested within the 10-day period as provided in §8-308, such request shall be made in writing to the government 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 enforcing officer before the governing body. The hearing shall be held by the governing body as soon as practical 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in §8-310.

8-313. COSTS ASSESSED. If the city abates the motor vehicle nuisance pursuant to §8-310, the cost of abatement shall be charged against the lot or parcel of ground on which the motor vehicle nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

(Ordinance 896 – 3/06/00)