

PART 8

HEALTH AND SANITATION

CHAPTER 1

WEEDS AND TRASH

- § 8-101 Accumulation of trash or weeds unlawful.
- § 8-102 Definitions.
- § 8-103 Notice and hearing.
- § 8-104 Appointment of administrative officer or administrative body to conduct hearings on cleaning and mowing property.
- § 8-105 Work done by employees or contract.
- § 8-106 Determination and assessment of costs.
- § 8-107 Lien on property; civil remedy.
- § 8-108 Service of notice.
- § 8-109 Unlawful to deposit rubbish.
- § 8-110 Burning refuse.
- § 8-111 Removal of dead animals.
- § 8-112 Unlawful to litter.
- § 8-113 Unlawful to litter from automobiles.
- § 8-114 Litter not to accumulate on property.
- § 8-115 Penalty.
- § 8-116 Removal of dilapidated buildings.
- § 8-117 Unauthorized entry into trash receptacles prohibited.

CHAPTER 2

FOOD REGULATIONS

- § 8-201 Food service, regulations.
- § 8-202 Milk ordinance adopted.
- § 8-203 Grade requirements.
- § 8-204 Violation; penalty.

CHAPTER 3

NUISANCES

- § 8-301 Nuisance defined; public nuisances; private nuisances.
- § 8-302 Persons responsible.
- § 8-303 Time does not legalize.
- § 8-304 Remedies against public nuisances.
- § 8-305 Remedies against private nuisances.
- § 8-306 City has power to define and summarily abate nuisances.

- § 8-307 Certain public nuisances in the city defined.
- § 8-308 Summary abatement of nuisances.
- § 8-309 Abatement by suit in district court.
- § 8-310 Nuisance unlawful.
- § 8-311 Health nuisances; abatement.
- § 8-312 Toilet facilities required; nuisance.
- § 8-313 Discarded refrigerator to open from inside.
- § 8-314 Procedure cumulative.

CHAPTER 4

JUNKED, WRECKED MOTOR VEHICLES

- § 8-401 Nuisance.
- § 8-402 Definitions.
- § 8-403 Storing, parking or leaving dismantled or other such motor vehicles prohibited; and declared a nuisance; exceptions.
- § 8-404 Penalty.

CHAPTER 5

ENFORCEMENT AND PENALTY

- § 8-501 County health department designated to enforce health ordinances.
- § 8-502 Obstructing health officer.
- § 8-503 Quarantine; violations.
- § 8-504 Penalty.

CHAPTER 6

BURN PERMITS

- § 8-601 Burn Permit Required.
- § 8-602 Penalty.

CHAPTER 7

ADOPTION OF TITLE 69 SECTION 1253 & 1254

- § 8-701 Definitions.
- § 8-702 Prohibition on operation of junkyards or facilities.
- § 8-703 Penalty.

CHAPTER 1

WEEDS AND TRASH

- § 8-101 **Accumulation of trash or weeds unlawful.**
- § 8-102 **Definitions.**
- § 8-103 **Notice and hearing.**
- § 8-104 **Appointment of administrative officer or administrative body to conduct hearings on cleaning and mowing property.**
- § 8-105 **Work done by employees or contract.**
- § 8-106 **Determination and assessment of costs.**
- § 8-107 **Lien on property; civil remedy.**
- § 8-108 **Service of notice.**
- § 8-109 **Unlawful to deposit rubbish.**
- § 8-110 **Burning refuse.**
- § 8-111 **Removal of dead animals.**
- § 8-112 **Unlawful to litter.**
- § 8-113 **Unlawful to litter from automobiles.**
- § 8-114 **Litter not to accumulate on property.**
- § 8-115 **Penalty.**
- § 8-116 **Removal of dilapidated buildings.**
- § 8-117 **Unauthorized entry into trash receptacles prohibited.**

§ 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

It is unlawful for any owner, occupant or persons otherwise in possession or control of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the City of Geary to allow trash or weeds to grow, stand or accumulate upon such premises. It is the duty of such owner, occupant or persons otherwise in possession or control to remove or destroy any such trash or weeds. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, the City of Geary may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this chapter, if such weeds or trash pose a hazard to traffic and are located in or within ten (10) yards of the public right-of-way at intersections. (Amended 7-9-2009 by Ord. No. 2009-08)

State Law Reference: Cleaning, mowing property, municipal powers, 11 O.S. § 22-110.

§ 8-102 DEFINITIONS.

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

1. "Weed" or "weeds" include, but are not limited to, poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

- a. Exceeds twelve (12) inches in height. except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;
- b. Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;
- c. Harbors rodents or vermin;
- d. Gives off unpleasant or noxious odors;
- e. Constitutes a fire or traffic hazard; or
- f. Is dead or diseased,

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use, except as provided for in § 8-101, above.

2. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded, or abandoned.

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

4. "Cleaning" means the removal of trash from property. (Amended 7-9-2009 by Ord. No. 2009-08)

§ 8-103 NOTICE AND HEARING.

The City of Geary may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property, by mail, at the address shown by the current year's tax rolls in the county treasurer's office, before the City of Geary holds a hearing or takes action, The notice shall order the property owner to clean the property of trash or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that, unless such work is performed within ten (10) days of the date of the notice, the work shall be done by the municipality and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the City of Geary. At the time of mailing of notice to the property owner, the City of Geary shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten (10) days from the

mailing by the City of Geary, notice may be given by posting a copy of the notice on the property or by publication, as defined in 11 O.S. § 1-102, one time not less than ten (10) days prior to any hearing or action by the City of Geary. If the City of Geary anticipates summary abatement of a nuisance in accordance with the provisions of Subsection 5 of this section, the notice, whether by mail, posting or publication, shall state that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six months from and after the date of the notice may be summarily abated by the City of Geary; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;

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

3. A hearing may be held by the City of Geary to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;

4. Upon a finding that the condition of the property constitutes a detriment or a hazard, and that the property would be benefited by the removal of such conditions, the City of Geary is granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the City of Geary. Immediately following the cleaning or mowing of the property, the city clerk shall file a notice of lien with the county clerk describing the property and the work performed by the City of Geary and stating that the City of Geary claims a lien on the property for the cleaning or mowing costs;

5. If notice is given by the City of Geary to a property owner ordering the property within the city limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement, the City of Geary shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in this section. Unless otherwise determined at the hearing, the cost of such abatement shall be determined and collected as provided for in §§ 8-106 and 8-107 of this chapter. This subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to this section. (Amended 7-9-2009 by Ord. No. 2009-08¹)

Editor's Note: This ordinance also deleted former § 8-103, Reports of accumulation of grass, weeds or trash on property, and renumbered former §§ 104 and 104.1 as §§ 103 and 104, respectively.

§ 8-104 **APPOINTMENT OF ADMINISTRATIVE OFFICER OR ADMINISTRATIVE BODY TO CONDUCT HEARINGS ON CLEANING AND MOWING PROPERTY.**

The city council hereby designates, by ordinance, an administrative officer or administrative body to carry out the duties of the city council as specified in § 8-103. The administrative body appointed by the city council shall consist of three members and shall be called the " Nuisance Abatement Board." The designee or body, appointed by the majority vote of the council, is given the authority to carry out the duties of the city council to take care of all of the procedures and requirements of this chapter and state law. Any property owner who is grieved by the actions of the administrative officer shall have a right of appeal to the city council of the City of Geary from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the City of Geary city clerk within ten (10) days after the administrative order is rendered. (Amended 7-9-2009 by Ord. No. 2009-08)

§ 8-105 **WORK DONE BY EMPLOYEES OR CONTRACT.**

The work ordered to be performed under § 8-103 of this code may be done by the employees of this city under supervision of the city utility or sanitation department, or it may be let by contract in the manner for letting other contracts. (Amended 7-9-2009 by Ord. No. 2009-08)

§ 8-106 **DETERMINATION AND ASSESSMENT OF COSTS.**

The City of Geary shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The city clerk shall forward by mail, to the property owner specified in Subsection 1 of § 8-103, a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the City of Geary, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder. (Amended 7-9-2009 by Ord. No. 2009-08)

§ 8-107 **LIEN ON PROPERTY; CIVIL REMEDY.**

If payment is not made within thirty (30) days from the date of the mailing of the statement, then within the next sixty (60) days, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this chapter. Until finally paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition, the cost and the Interest thereon shall be a lien against the property from the date the cost is certified to the county clerk, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all

other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of five (\$5.00) dollars for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the City of Geary agree that the county treasurer is unable to collect the assessment the City of Geary may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment the City of Geary city clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien. (Amended 7-9-2009 by Ord. No. 2009-08)

§ 8-108 **SERVICE OF NOTICE.**

The service of all notices prescribed by this chapter shall be evidenced by the return of the officer making such service, certified in his official capacity, and filed in the office of the city clerk.

§ 8-109 **UNLAWFUL TO DEPOSIT RUBBISH.**

It is unlawful for any person to throw, place or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trees, brush or any other refuse or waste matter in any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this city. (8/2010 Supplement)

§ 8-110 **BURNING REFUSE.**

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

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

- C. The chief of the fire department may issue a burn permit to individuals at such times and for such reasons as he shall determine under such safeguards and requirements as he may direct. (Amended 1988)

§ 8-111 **REMOVAL OF DEAD ANIMALS.**

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

§ 8-112 UNLAWFUL TO LITTER.

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

B. It is unlawful for any person to litter.

§ 8-113 UNLAWFUL TO LITTER FROM AUTOMOBILES.

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

§ 8-114 LITTER NOT TO ACCUMULATE ON PROPERTY.

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

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

§ 8-115 PENALTY.

Any person, firm or corporation found violating any provision of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished as provided in § 1-108 of this code.

§ 8-116 REMOVAL OF DILAPIDATED BUILDINGS.

A. The City of Geary may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the following procedures:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the City of Geary holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown on the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder, as shown by the records in the office of the county clerk, to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate

the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication as defined in 11 O.S. § 1-102. The notice may be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the City of Geary to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community or if the property creates a fire hazard which is dangerous to other property;

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the City of Geary may cause the dilapidated building to be torn down and removed. The City of Geary shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property and the findings of the City of Geary at the hearing and stating that the City of Geary claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the City of Geary are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the City of Geary if the work is not performed by the property owner within dates fixed by the City of Geary. Any action to challenge the order of the City of Geary shall be filed within 30 business days from the date of the order;

4. The City of Geary shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The municipal clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in Subsection A1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City of Geary shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee, If the City of Geary dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder; and

5. When payment is made to the City of Geary for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six months from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the

interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of five (\$5.00) dollars for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the City of Geary agree that the county treasurer is unable to collect the assessment, the City of Geary may pursue a civil remedy for collection of the amount owing and interest thereon, including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

B. The city council hereby designates, by ordinance, an administrative officer or administrative body to carry out the duties of the city council as specified in this section. The administrative body appointed by the city council shall consist of three members and shall be called the "Nuisance Abatement Board." The designee or body, appointed by the majority vote of the council, is given the authority to carry out the duties of the city council in all matters pertaining to this section up to the hearing prior to removal of the dilapidated building. The designee shall present the reasons for the proposed removal to the city council at the hearing. The property owner shall have the right of appeal to the city council of the City of Geary from any order of the administrative officer or administrative body, such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

C. For the purposes of this section:

1. "Dilapidated building" means:

- a. A structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public;
- b. A structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public;
- c. A structure which is determined by the City of Geary or the administrative officer of the City of Geary to be an unsecured building, as defined by 11 O.S. § 22-112.1, more than three (3) times within any twelve-month (12) period;

- d. A structure which has been boarded and secured, as defined by 11 O.S. § 22-112.1, for more than thirty (36) consecutive months; or
- e. A structure declared by the City of Geary to constitute a public nuisance; and

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

D. Nothing in the provisions of this section shall prevent the City of Geary from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

E. The officers, employees or agents of the City of Geary shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (Added 1992; amended 1-10-2000 by Ord. No. 2000-1; 7-9-2009 by Ord. No. 2009-09)

§ 8-117 UNAUTHORIZED ENTRY INTO TRASH RECEPTACLES
PROHIBITED.

It is unlawful for any person to enter into, rummage through, molest tamper, damage or remove any article, item or trash from a trash receptacle, trash can or dumpster owned by the city, except for the proper removal of trash by the authorized city employees. (Added 6-6-1996 by Ord. No. 96-4)

CHAPTER 2

FOOD REGULATIONS

- § 8-201 Food service, regulations.
- § 8-202 Milk ordinance adopted.
- § 8-203 Grade requirements.
- § 8-204 Violation; penalty.

§ 8-201 FOOD SERVICE, REGULATIONS.

A. The latest edition of the "Oklahoma State Department of Health Rules and Regulations Pertaining to Food Establishments" is hereby adopted and incorporated in this code by reference. At least one copy of the rules and regulations shall be on file in the office of the city clerk. The rules and regulations shall govern the definitions; inspection of food service establishments; the issuance, suspension, and revocation of permits to operate food service establishments; the prohibiting of the sale of adulterated or misbranded food or drink and the enforcement of this section.

B. Any person who violates any of the provisions of this section shall be guilty of misdemeanor and, upon conviction thereof, shall be punished as provided in § 1-108 of this code. In addition thereto, any person convicted of violation may be enjoined from continuing the violation. (Prior Code, § 11-9 in part)

State Law Reference: State food regulations, 63 O.S. §§ 1-1101 et seq.

§ 8-202 MILK ORDINANCE ADOPTED.

Part II of the Grade A Pasteurized Milk Ordinance, recommended by the U.S. Public Health Service, is hereby adopted and incorporated by reference to govern and regulate the production, transportation, processing, handling, sampling, examination, grading, labeling and sale of milk and milk products sold for ultimate consumption within the city limits or its police jurisdiction; the inspection of dairy farms, dairy herds and milk plants; the issuing and revocation of permits to milk producers, haulers and distributors. At least one copy of the Pasteurized Milk Ordinance shall be filed in the office of the appropriate official. §§ 9, 16 and 17 of the abridged ordinance shall be replaced, respectively by §§ 8-203 and 3-204 of this code.

State Law Reference: State laws regulating milk standards, 63 O.S. §§ 1-1301 et seq.; manufacture of milk, 2 O.S. §§ 7-1 et seq.

§ 8-203 GRADE REQUIREMENTS.

Only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores or similar establishments; provided that in an emergency, milk which is ungraded or the grade which is unknown, may be authorized by the health authority, in which case, such milk and milk products shall be labeled "ungraded."

§ 8-204 VIOLATION; PENALTY.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in § 1-108 of this code.

CHAPTER 3

NUISANCES

- § 8-301 Nuisance defined; public nuisances; private nuisances.
- § 8-302 Persons responsible.
- § 8-303 Time does not legalize.
- § 8-304 Remedies against public nuisances.
- § 8-305 Remedies against private nuisances.
- § 8-306 City has power to define and summarily abate nuisances.
- § 8-307 Certain public nuisances in the city defined.
- § 8-308 Summary abatement of nuisances.
- § 8-309 Abatement by suit in district court.
- § 8-310 Nuisance unlawful.
- § 8-311 Health nuisances; abatement.
- § 8-312 Toilet facilities required; nuisance.
- § 8-313 Discarded refrigerator to open from inside.
- § 8-314 Procedure cumulative.

§ 8-301 NUISANCE DEFINED : NUISANCES, PUBLIC NUISANCES; PRIVATE.

A. A nuisance is unlawfully doing an act or omitting to perform a duty or is any thing or condition which either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;
2. Offends decency;
3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
4. In any way renders other persons insecure in life or in the use of property.

B. A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

C. Every nuisance not included in Subsection B above is a private nuisance.

State Law Reference: Nuisances defined, municipal powers to abate, 50 O.S. §§ 1 et seq.

§ 8-302 PERSONS RESPONSIBLE.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefore in the same manner as the one who first created it.

§ 8-303 TIME DOES NOT LEGALIZE.

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

§ 8-304 REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court;
2. Prosecution on information or indictment before another appropriate court;
3. Civil action; or
4. Abatement:
 - a. By person injured as provided in § 12 of Title 50 of the Oklahoma Statutes; or
 - b. By the city in accordance with law or ordinance.

§ 8-305 REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

1. Civil action; or
2. Abatement:
 - a. By person injured as provided in §§ 14 and 15 of Title 50 of the Oklahoma Statutes; or
 - b. By the city in accordance with law or ordinance.

§ 8-306 CITY HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCES.

As provided in § 16 of Title 50 of the Oklahoma Statutes, the city has power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks and the public water supply, outside of its corporate limits.

Whenever it is practical to do so, the city has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done.

§ 8-307 **CERTAIN PUBLIC NUISANCES IN THE CITY DEFINED.**

In addition to other public nuisances declared by other sections of this code or law, the following are hereby declared to be public nuisances:

1. The sale or offering for sale of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;
2. The sale, offering for sale or furnishing of intoxicating liquor in violation of the state law or ordinances of the city; or keeping of a place where intoxicating liquor is sold, offered for sale or furnished in violation of the state law or ordinance of the city;
3. The exposure, display, sale or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;
4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;
5. The keeping of a place where prostitution, illicit sexual intercourse or other immoral acts are practiced;
6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
7. The conduct or holding of public dances in violation of the ordinances of the city; or the keeping of a place where such dances are held;
8. The public exposure of a person having a contagious disease;
9. The continued making of loud or unusual noises which annoy persons or ordinary sensibilities; or the keeping of an animal which makes such noises;
10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
11. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance;
12. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;

13. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public safety;

14. Rank weeds or grass, carcasses, accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin, or disease germs; and the premises on which such exist;

15. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;

16. Any pit, hole or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;

17. Any fire or explosion hazard which endangers the public safety;

18. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;

19. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate as required by law for vehicles used on the public highways, when stored or kept in a residence district; or

20. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of the city, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation, *is* hereby declared to be a nuisance;

21. The keeping of any dog kennels within this city for the breeding and raising of dogs that shall become offensive or annoying to the public by reason of the barking and noise made by the animals therein contained;

22. Any vault, cesspool or sink used to receive human excrement, slops, garbage, refuse, or other filthy substance;

23. Any pond, slop, trash, refuse, cobs, manure, decayed or decaying vegetable matter, left, kept or maintained in such condition as to endanger the public health;

24. Every privy or water closet which shall be in an overflowing, leaking or filthy condition, or in a condition dangerous, injurious or annoying to the comfort, health and welfare of any resident of this city;

25. Any green or unsalted hides of any animal kept In any exposed or open place within the limits of this city;

26. Any unclean, foul, leaking, or broken or defective ditch, drain, gutter, slop, garbage or manure barrel, box or other receptacle;

27. Every building or other structure that shall become unsafe and dangerous from fire, decay and other cause, or shall become hazardous from fire, by reason of age, decay or construction, location or other cause, or shall be detrimental to the health, safety or welfare of this city or its inhabitants from any cause; and

28. Any water or putrid substances, whether animal or vegetable, to accumulate so as to cause an offensive odor to be emitted therefrom, or to become in a condition injurious or dangerous to the health of the neighborhood.

The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms;

§ 8-308 **SUMMARY ABATEMENT OF NUISANCES.**

A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require the mayor or other appropriate officer or agency of the city government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement, pursuant to its police and general powers, this code, § 16 of Title 50 of the Oklahoma Statutes, and any other applicable laws.

B. The chief of the fire department, the chief of police, the city attorney, the building inspector, the electrical inspector, the plumbing inspector or any other officer subordinate to the mayor may submit through or with the consent of the mayor to the city council, a statement as to the existence of a nuisance as defined by the ordinances of the city of law, and a request or recommendation that it be abated. The mayor himself, the health officer and council or any resident or residents of the city may submit such a statement and request a recommendation to the council.

C. The council shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the city council shall have power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance or have it abated, the city council shall give notice of a hearing on the proposed abatement to the owner of any property concerned and an adequate opportunity to be heard, if such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer if their names and addresses are known; but, if the names or addresses are not known, and the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the city.

D. If the council finds that a nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected

would not be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the council shall direct the mayor to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by § 16 of Title 50 of the Oklahoma Statutes. The city clerk shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the city collectible as other debts to the city may be collected.

§ 8-309 ABATEMENT BY SUIT IN DISTRICT COURT.

In cases where it is deemed impractical summarily to abate a nuisance the city may bring suit in the district court of the county where the nuisance is located, as provided in § 17 of Title 50 of the Oklahoma Statutes.

§ 8-310 NUISANCE UNLAWFUL.

It is unlawful for any person, including but not limited to any owner, leasee, or other person to create or maintain a nuisance within the city or to permit a nuisance to remain on premises under his control within the city.

§ 8-311 HEALTH NUISANCES; ABATEMENT.

A. Pursuant to authority granted by § 1-1011 of Title 63 of the Oklahoma Statutes, the health officer shall have authority to order the owner or occupant of any private premises in the city to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a policeman or a copy thereof may be left at the last usual place of abode of the owner, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises or by publication in at least one issue of a newspaper having a general circulation in the city.

B. If the order is not complied with, the health officer may cause the order to be executed and complied with and the cost thereof shall be certified to the city clerk, and the cost of removing or abating such nuisance shall be added to the water bill or other city utility bill of the owner or occupant if he is a user of water from the city water system or such other utility service. The cost shall be treated as a part of such utility bill to which it is added and shall become due and payable, and subject to the same regulations relating to delinquency in payment as the utility bill itself. If such owner or occupant is not a user of any city utility service, such cost, after certification to the city clerk, may be collected in any manner in which any other debt due the city may be collected.

§ 8-312 TOILET FACILITIES REQUIRED; NUISANCE.

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

1. "Human excrement" means the bowel and kidney discharge of human beings; and
2. "Sanitary water closet" means the flush type toilet which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times.

B. Every owner or occupier of a residence, building, or any other structure or place either permanent or temporary in which humans reside, are employed or congregate within this city shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet. This provision shall not apply to a recreational vehicle or tent located in a properly zoned campground or recreational park. The closets and toilets hereby required shall be of the sanitary water closet type when located within two hundred (200) feet of a sanitary sewer and accessible thereto and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system. A septic tank system may be used in such cases only if it meets the standards of and is approved by the State Health Department.

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

D. All facilities for the disposal of human excrement in a manner different from that required by this section and all closets so constructed, situated or maintained as to endanger the public health, are hereby declared to be public nuisances, and may be dealt with and abated as such. Any person maintaining any such nuisance is guilty of an offense and each day upon which any such nuisance continues is a separate offense. (Amended 11-4-2010 by Ord. No. 2010-07)

§ 8-313 DISCARDED REFRIGERATOR TO OPEN FROM INSIDE.

All residents of the city having a refrigerator, ice box, ice chest or any other type of air tight chamber upon their premises, which refrigerator I ice box, ice chest or other type of air tight chamber has been discarded or is not In regular use, are required to place safety latches on the inside of such refrigerator, ice box, ice chest or other type of air tight chamber so that the doors or lids of such refrigerator, ice box, ice chest or other type of air tight chamber may be opened from the inside or in lieu thereof the lock, latch or catch on the doors or lids of such refrigerators, ice box, ice chest or other air tight chamber shall be completely removed in order that such doors or lids cannot lock in place when closed. The provision of this section shall not be construed to apply to commercial warehouses or businesses where refrigerators, ice boxes and other types of ice chests are regularly stored or kept for business purposes.

§ 8-314 PROCEDURE CUMULATIVE.

The various procedures for abating nuisances prescribed by this chapter and by other provisions of law and ordinance shall be cumulative on to any other penalties or procedures authorized.

CHAPTER 4

JUNKED, WRECKED MOTOR VEHICLES

- § 8-401 Nuisance.
§ 8-402 Definitions.
§ 8-403 Storing, parking or leaving dismantled or other such motor vehicles prohibited; and declared a nuisance; exceptions.
§ 8-404 Penalty.
- § 8-401 NUISANCE.

Motor vehicles which are abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, or discarded, or left about the city in places other than authorized junk yards or other areas authorized by the city council and which tend to do anyone or more of the following:

1. Impede traffic in the streets;
2. Reduce the value of private property;
3. Create fire hazards;
4. Extend and aggravate urban blight; or
5. Result in a serious hazard to the public health, safety, comfort, convenience and welfare of the residents of the city, are hereby declared to be a nuisance.

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

§ 8-402 DEFINITIONS.

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

1. "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers;
2. "Junk motor vehicle" is any motor vehicle, which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, and the condition of which is wrecked, dismantled, partially dismantled, Inoperative, abandoned, or discarded;
3. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind;

4. "Private property" means any real property within the city which is privately owned and which is not public property as defined in this section; and

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

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

A. No person shall park, store, leave, or permit the parking, storing, or leaving of any junk motor vehicle or vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, junked, or partially dismantled condition whether attended or not, upon any public or private property within the city for a period of time in excess of ten (10) days.

B. The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled vehicle or parts thereof, on private or public property is hereby declared a public offense and misdemeanor.

C. After proper notice, the vehicle may be removed by the city or its agents. Costs of removal and storage are chargeable against the owner and the vehicle.

D. This section shall not apply to any vehicle enclosed within a building on private property, nor any vehicle shielded from view from a sight-proof fence, nor any vehicle held for use in connection with a business enterprise lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to zoning laws of the city, nor shall this section apply to any motor vehicle in operable condition specifically adopted or designated for operation on drag strips or raceways. (A mended 1986)

§ 8-404 **PENALTY.**

Any person who violates any provision of this chapter, by doing any act prohibited or declared to be unlawful thereby, or declared to be an offense or misdemeanor thereby, is guilty of an offense and, upon conviction thereof, shall be punished as provided in § 1-108 of this code. Each day upon which any such violation continues shall constitute a separate offense.

CHAPTER 5

ENFORCEMENT AND PENALTY

- § 8-501 County health department designated to enforce health ordinances.
§ 8-502 Obstructing health officer.
§ 8-503 Quarantine; violations.
§ 8-504 Penalty.

§ 8-501 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

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

§ 8-502 OBSTRUCTING HEALTH OFFICER.

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

§ 8-503 QUARANTINE; VIOLATIONS.

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

§ 8-504 PENALTY.

Any person who violates any provision of this chapter or any law or code adopted by reference in this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in § 1-108 of this code. In addition thereto, such person may be enjoined from continuing such violations.

CHAPTER 6

BURN PERMITS

- § 8-601** **Burn Permit Required.**
§ 8-602 **Penalty.**

SECTION 8-601 BURN PERMIT REQUIRED

No person shall burn any material within the limits of the City of Geary without obtain a burn permit from the Fire Chief or Assistant Fire Chief. The Fire Chief or Assistant Fire Chief shall not grant a permit to burn any material in violation of any State or Federal Law. The City Council may establish a fee for the burn permit.

SECTION 8-602 PENALTY.

Any person who violates any provision of this chapter or any law or code adopted by reference in this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. In addition thereto, such person may be enjoined from continuing such violations. (Added by Ord. No. 2012-01, July 12, 2-13)

CHAPTER 7

ADOPTION OF TITLE 69 SECTION 1253 & 1254 - Definitions; Prohibition on Operation of Junkyards or Facilities

SECTION 8-701 DEFINITIONS

Title 69 Oklahoma Statutes Section 1253 is adopted as follows:

As used in this ordinance:

(a) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" means any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

(c) "Junkyard" means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(d) "Interstate system" means that portion of the National System of Interstate and Defense Highways located within this state, as officially designated, or as may hereafter be so designated by the Transportation Commission, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code, "Highways."

(e) "Primary system" means that portion of connected main highways as officially designated, or as may hereafter be so designated, by the Transportation Commission, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code, "Highways."

(f) "Unzoned industrial areas" means any area not zoned by state or local law, regulation or ordinance, which is occupied by one or more industrial activities, and the lands along the highway for a distance of one thousand (1,000) feet measured in each direction from the outer edges of the regularly used buildings, parking lots, storage, or processing areas of the activities, and lying parallel to the edge or pavement of the highway, and located on the same side of the highway as the principal part of said activities. Measurements shall not be from the property lines of the activities, unless said property lines coincide with the limits of the activities.

(g) "Scrap metal processing facility" means an establishment having facilities used primarily for processing iron, steel or nonferrous metals and whose principal product is such iron, steel or scrap for sale for remelting purposes only, the processor being considered a manufacturer.

(h) "Industrial activities" means those activities permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state except that none of the following shall be considered industrial activities:

- (1) Outdoor advertising signs, displays or devices;
 - (2) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;
 - (3) Activities normally and regularly in operation less than three (3) months of the year;
 - (4) Transient or temporary activities;
 - (5) Activities not visible from the traffic lanes of the main traveled way;
 - (6) Activities more than three hundred (300) feet from the nearest edge of the main traveled way;
 - (7) Activities conducted in a building principally used as a residence;
 - (8) Railroad tracks, minor sidings and passenger depots;
 - (9) Strip or other open mining activities; and
 - (10) Junkyards, automobile graveyards or scrap metal processing facilities.
- (i) "Department" means the Oklahoma Department of Transportation.
- (j) "Commission" means the Transportation Commission of the Oklahoma Department of Transportation.
- (k) "Director" means the Director of the Oklahoma Department of Transportation.

SECTION 8-702 PROHIBITION ON OPERATION OF JUNKYARDS OR FACILITIES

Title 69 Oklahoma Statutes Section 1254 is adopted as follows:

No person, firm or corporation shall establish, operate or maintain a junkyard or scrap metal processing facility, any portion of which is within one thousand (1,000) feet of the nearest edge of the right of way of any interstate or primary highway, except the following:

(a) Those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the system, or otherwise removed from sight.

(b) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by regulations to be promulgated by the Commission.

(c) Those located within areas which are zoned for industrial use under authority of state or local law, regulation or ordinances.

(d) Those which are not visible from the main traveled way of the system.

SECTION 8-703 PENALTY.

Any person who violates any provision of this chapter or any law or code adopted by reference in this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. In addition thereto, such person may be enjoined from continuing such violations.

(Added by Ord. No. 2012-02, 9-13-2012)