

## **City of Eudora Health and Sanitation Code**

*(Summary adopted from Chapter 8 Article 2A, 2 and 3 of The City of Eudora Code Book)*

### **Article 2A: Environmental Code**

The purpose of this article(s) is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in the 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.

1. 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 follow:

- (A) **Exterior conditions (yard)**- shall include, but not limited to the scattering over of the parking, leaving, depositing or accumulation on the yard of any of the following:
  - (i) Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk and refuse.
  - (ii) Abandoned motor vehicles; or
  - (iii) Furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property
  - (iv) Nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.
  
- (B) **Exterior conditions (structure)**- shall include, but not limited to, deteriorated, dilapidated or unsightly;
  - (i) Exterior of any structure,
  - (ii) Exterior of any accessory structure; or
  - (iii) Fences, walls, or retaining walls.

### **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 the above regulations 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 first class mail, 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 24 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.

- c) The order shall state:-
  - (i) The condition which has caused the violation of the regulation; and
  - (ii) That the person in violation shall have;
  - (iii) 10 days from receipt of the order to alleviate the exterior conditions (yard) violation; and or;
  - (iv) 45 days from the receipt of the order to alleviate the exterior conditions(structure) violation; or in the alternative to subsection (i) and (ii) above,
  - (v) 10 days from the receipt of the order, plus additional time granted under subsection (C), to request , as provided in section 8-1A12 a hearing before the governing body or its designated representative on the matter.
- d) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-1A10 and/or abatement of the condition(s) by the city as provided by section 8-1A11.
- e) If the city abates or removes the nuisance pursuant to section 8-1A11, the city shall give notice to the owner or his or her agent by first class mail, 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 mailing 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.

## **Article 2: Weeds and Grass**

- 2. 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, right-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared nuisance and are subject to abatement as hereinafter provided.

***WHAT ARE CONSIDERED WEEDS?*** Weeds- as used here, means any of the following;

- (i) Brush and woody vines shall be classified as weeds;
- (ii) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (iii) Weeds which bear or may bear seeds of a downy or wingy nature;
- (iv) 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;
- (v) **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.*

**Order of Violation:**

- a) The mayor 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, 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, with a calendar year being January 1 to December 31.
- b) The notice to be given hereunder shall state:
  - (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 control of *the property is ordered to cut or destroy the weeds within ten (10) days of the receipt of the notice;*
  - (iii) 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 (5) days of mailing 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;
  - (iv) 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;
  - (v) *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;*
  - (vi) that *no further notice will be given during the current calendar year* prior to the removal of weeds from the property; and,
  - (vii) that the public officer should be contacted if there are questions regarding the order.

### **Article 3: Junked Motor Vehicles on Private Property**

3. The governing body believes that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they;
  - 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 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.
  
- A) It is unlawful for any person to maintain or permit any motor vehicle nuisance within the city.
  
- B) 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;
  - (i) Absence of a current registration plate upon the vehicle;
  - (ii) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
  - (iii) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
  
- C) The provisions of this article shall not apply to:
  - (i) Any motor vehicle which is enclosed in a garage or other building;
  - (ii) The parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
  - (iii) 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.

#### **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 the above regulations 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 first class mail, 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 24 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.
- c) The order shall state the condition(s) which are in violation of the regulation(s);
- d) That the person, corporation, partnership or association that;
  - (i) He, she or they shall have 10 days from the date of mailing the order to abate the condition(s) in violation of the regulation(s)
  - (ii) 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;
  - (iii) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 9-309 and/or abatement of the condition(s) by the city as provided by section 8-310.
  - (iv) 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 8-203, 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.
  - (v) 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 first class mail, 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 mailing 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.