

Health & Nuisances

PART 8

HEALTH AND NUISANCES

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SECTION 8-101 DEFINITIONS.

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

"Administrative officer" means the city manager or his designee;

"Cleaning" means the removal of trash from property;

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

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

"Weed" includes but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:

- A. Exceeds twelve (12) inches in height, except healthy trees, shrubs or produce for human consumption or grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or

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a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;

- B. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;
- C. Harbors rodents or vermin;
- D. Gives off unpleasant or noxious odors;
- E. Constitutes a fire or traffic hazard; or
- F. Is dead or diseased.

The term "weed" does not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

(Prior Code, Chapter 22, in part; Ord. No. 2087, 10/19/92)

State Law Reference: Cleaning and mowing of property, procedures and powers 11 O.S. Sec. 22-111.

SECTION 8-102 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

- A. It is unlawful for any owner or occupant of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the city to allow trash or weeds to grow, stand or accumulate upon such premises. It is the duty of such owner or occupant to remove or destroy any such trash or weeds.
- B. No owner or occupant of land or lots shall:
 - 1. Knowingly permit the throwing or dumping upon his premises of any refuse, rubbish or trash; or
 - 2. Permit such materials to remain on his premises for more than ten (10) days after being notified to remove them by the city or the county health department whether or not the owner or occupant knew of or permitted such throwing or depositing.

In addition to a penalty for violation of this section or Section 8-203, the City may abate as a public nuisance any condition prohibited herein pursuant to this chapter, any other law or ordinance, all of which shall be cumulative.

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SECTION 8-103 DUTY OF OWNER, OCCUPANT TO MAINTAIN PRIVATE PROPERTY.

No person owning, leasing, occupying or having charge of any private property or premises shall maintain or keep any refuse, rubbish, trash or similar material except dirt thereon; nor shall such person allow the accumulation of any such material; nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of other property in the neighborhood in which the premises are located. No prosecution may be undertaken under this section until such person shall have been given ten (10) days' notice by the City of the condition and an order to fully abate the alleged deficiency. (Prior Code, Chapter 22, in part)

Cross Reference: See also Section 8-510 and 8-511 of this code for similar provisions on accumulations of litter on private property.

SECTION 8-104 REPORTS OF ACCUMULATION OF GRASS, WEEDS OR TRASH ON PROPERTY.

Any officer or employee of the city who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the city, shall report the condition to the administrative officer if, as a result of the accumulation or growth, the premises appear to be:

- A. Detrimental to the health, benefit and welfare of the public and the community;
- B. A hazard to traffic;
- C. A fire hazard to property; or
- D. Any two (2) or more of these conditions.

(Prior Code, Chapter 22, in part)

SECTION 8-105 CLEANING AND MOWING, NOTICE, CONSENT, HEARING, ABATEMENT, LIEN AND PAYMENT.

The city manager is authorized to cause property within the city to be cleaned of trash and weeds, or grass to be cut or mowed, and the nuisance to be abated in accordance with the following procedure:

- A. The administrative officer may determine whether the accumulation of trash, growth of weeds or grass, or other nuisances has caused the property to

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become detrimental to the health, benefit or welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of the property;

- B. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the hearing provided for herein or before action may be taken. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall state that unless the work is performed within ten (10) days of the date of the notice, the work shall be done by the city and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the city;
- C. At the time of mailing of notice to the property owner, the city 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 can not be located within ten (10) days from the date of mailing the same, notice may be given by posting a copy of the notice on the property or by publication, as provided by Section 102.8 of Title 11 of the Oklahoma Statutes, one (1) time not less than ten (10) days prior to any hearing or action;
- D. If the city anticipates summary abatement of a nuisance in accordance with the provisions as herein provided, the notice, whether by mail or publication, shall state: that any accumulations of trash or excessive weeds or grass growth on the owner's property occurring within six (6) months after the removal of trash or cutting or mowing of weeds or grass on the property pursuant to the notice may be summarily abated by the city; that the costs of such abatement shall be assessed against the owner; and that a lien shall be imposed on the property to secure such payment, all without further notice to the property owner. At the time of each summary abatement the city clerk shall notify the property owner of the abatement and costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. Unless otherwise determined at the hearing, the cost of such abatement shall be determined and collected as provided in this section. However, these summary abatement procedures shall not apply if the records of the county clerk show that the property was transferred after the notice was given pursuant to this section;
- E. The owner of the property may give his written consent to the city authorizing the removal of the trash or the mowing of the weeds or grass. By giving his written consent, the owner waives his right to a hearing by the City;

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- F. A hearing may be held by the administrative officer 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 or welfare of the public and the community or a hazard to traffic or creates a fire hazard to the danger of property. The property owner shall have a right of appeal to the city manager, except that if the city manager conducts the initial hearing, then the right of appeal is to the city council. The appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered.
- G. If the administrative officer finds the condition of the property constitutes a detriment or hazard and that the property would be benefitted by the removal or such conditions, the administrative officer shall direct the clearing or cleaning be done by one of the following methods:
1. By the City; or
 2. On a private contract basis, in which case it shall be awarded to the lowest and best bidder;

The agents of the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, cleaning and performance of necessary duties as a governmental function of the city. 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, and stating that the city claims a lien on the property for the cleaning and mowing costs, and that such costs are the personal obligation of the property owner from and after the date of filing of the notice;

- H. After the property has been cleaned, the administrative officer shall determine the actual cost of such cleaning and any other expenses as may be necessary in connection therewith, including the cost of the notice and mailing. The city clerk shall forward by mail to the property owner specified in this section a statement of the actual cost and demanding payment;
- I. If payment is not made within thirty (30) days from the date of the mailing of the statement, 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. The cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer and shall continue until the cost shall be fully paid;

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- J. At any time prior to the collection as provided herein, the City may pursue any civil remedy for collection of the amount owing and the interest thereon. Upon receiving payment, if any, the city clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien or part thereof; and
- K. The provisions of this section shall not apply to any property used for agricultural purposes.

(Prior Code, Chapter 22, in part)

SECTION 8-106 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. (Prior Code, Chapter 22, in part)

SECTION 8-107 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 so to do shall constitute a misdemeanor.

Cross Reference: Animals generally, Section 4-101 of this code.

SECTION 8-108 UNLAWFUL TO LITTER.

- A. For the purpose of this chapter, "littering" is defined as any trash, refuse, garbage, rubbish, ashes, street cleanings, abandoned appliances, paper wrappings, cigarette butts, cardboard, yard clippings, leaves, wood, grass, bedding, waste paper, tin cans, bottles, or any other object or substance.
- B. It is unlawful for any person to litter upon the public streets, alleys, roadways, curbs, gutters, and sidewalks of the city, except in public receptacles, or upon any real property owned or occupied by another.

(Prior Code, Chapter 22, in part)

SECTION 8-109 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,

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trash, waste paper, tin cans or any other substance or refuse whatever. (Prior Code, Chapter 22, in part)

SECTION 8-110 LITTER NOT TO ACCUMULATE ON PROPERTY.

- A. It is hereby declared to be unlawful for any person, firm or corporation, occupying any real property, either as tenant or owner, to allow trash, waste paper, litter, bottles, tin cans or any other used or disposed of objects to accumulate upon such real property or premises or on the sidewalk in front of such property or premises.
- 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, 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. (Prior Code, Chapter 22, in part)

SECTION 8-111 POLITICAL ADVERTISING ON RIGHTS OF WAY PROHIBITED.

- A. A political advertising sign is defined as any sign, poster or placard printed, painted, made or designed for the purpose of furthering or advertising the candidacy of any person who is or intends to become or may be a candidate for the election to any public office, whether such public office be in the local, state or federal government, or any subdivision thereof.
- B. No person, firm or corporation shall erect or display any political advertising sign on any street or alley right of way, or upon any public utility easement within this city.
- C. No person, firm or corporation shall place, tack, nail, staple or glue any political advertising sign on any telephone, telegraph, electric or street lighting pole within this city.
- D. Any political advertising sign erected, placed or displayed in violation of the provisions hereof shall be a public nuisance. No property right shall exist in such sign erected, placed or displayed in violation of the provisions of this section.

SECTION 8-112 PENALTY.

Any person, firm or corporation who violates any of the provisions of this chapter or shall allow the premises occupied to become unsanitary, or who shall in any manner

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violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 1-108 of this code.

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CHAPTER 2

FOOD AND RESTAURANTS

Section 8-201	Food Service Regulations Adopted.
Section 8-202	Milk Ordinance Adopted.
Section 8-203	Grades of Milk which May be Sold.
Section 8-204	Enforcement by Whom.
Section 8-205	Penalty.

SECTION 8-201 FOOD SERVICE REGULATIONS ADOPTED.

- 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 (1) 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 Section 1-108 of this code. In addition thereto, any person convicted of violation may be enjoined from continuing the violation. (Prior Code, Sec. 11-1, as amended)

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

SECTION 8-202 MILK ORDINANCE ADOPTED.

The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for the ultimate consumption within the city, or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of the "Milk Ordinance - Recommendations of the Public Health Service Revised to Comply with Oklahoma State Statutes," a copy of which shall be filed in the office of the city clerk. Sections 9 and 16 of the unabridged ordinance shall be replaced, respectively by Sections 8-205 and 8-206 of this code.

State Law Reference: 63 O.S. Sections 1-1301 et seq.

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SECTION 8-203 GRADES OF MILK WHICH MAY BE SOLD.

Only certified pasteurized and Grade A pasteurized, and certified raw or Grade A raw milk and milk products, shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments. However, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority; in which case, such milk and milk products shall be labeled "ungraded".

SECTION 8-204 ENFORCEMENT BY WHOM.

All sampling, examining, grading, and regrading of milk and milk products and all inspections, and issuing and suspension or revocation of permits shall be done by the director of the county health department or his authorized representative, who shall be a registered professional sanitarian.

SECTION 8-205 PENALTY.

Any person who violates any provision of this chapter or the standards or codes adopted herein shall be punished and, upon conviction, as provided in Section 1-108 of this code.

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ABANDONED PROPERTY

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Section 8-306	Procedure for Disposition of Abandoned Property.
Section 8-307	Abandoned Property Declared to be Public Nuisance.
Section 8-308	Violations.

SECTION 8-301 DEFINITIONS.

In this chapter, unless the context otherwise requires:

"Abandoned property" means wrecked or derelict personal property, including but not limited to, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, stoves, hot water heaters and other household appliances, plumbing fixtures, and furniture;

"Private property" means real property not owned or used by a governmental body in the city, but does not include any place licensed or permitted under the zoning code to be used as a junkyard or salvage yard; and

"Public property" means real property owned or used by any governmental body in the city, and includes buildings or portions thereof under governmental use, parks, streets, sidewalks, right-of-way, easements and vacant or undeveloped land owned or leased by any governmental body.

(Ord. No. 2084, 4/6/92)

SECTION 8-302 ENFORCEMENT.

The building inspector, a police officer or other authorized city official shall enforce this chapter, and references herein to building inspector include such authorized officials.
(Ord. No. 2084, 4/6/92)

SECTION 8-303 ABANDONED PROPERTY AND RELATED ACTS PROHIBITED.

No person shall:

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- A. Place, leave or cause to be placed or left on public property or outside any building, enclosed porch, areaway or other portion of a building or dwelling on private property any abandoned property;
- B. Obstruct the building inspector in the discharge of his duties under this chapter;
- C. Remove any notice affixed to abandoned property under this chapter without the building inspector's consent; or
- D. Allow any abandoned property to remain on any private property which they own.

(Ord. No. 2084, 4/6/92)

SECTION 8-304 NOTICE OF ABANDONED PROPERTY.

- A. Notice on private property. Whenever the building inspector finds abandoned property which is located on private property and:
- B. He can reasonably ascertain the person responsible for placing, leaving or causing the placing or leaving of the abandoned property on the private property, he may serve upon such person a notice of abandoned property, in a form prescribed by the building inspector, stating that the property (which shall be described) appears to be abandoned property under this chapter, that the person receiving the notice (who shall be named) appears to be responsible for placing, leaving or causing the placing or leaving of the abandoned property under this chapter, that the person receiving the notice (who shall be described with reasonable particularity), that he has fifteen (15) days from the date of the notice in which to remove the abandoned property and that, in the event of such person's not removing the abandoned property within the fifteen-day period, it may be removed by the City and the cost of such removal assessed against the real property from which the abandoned property was removed or against the person receiving the notice where authorized by state law or the building code.

The notice shall also state that the person may within the fifteen-day period, request a hearing as to the necessity of removal and the place where the person may make his request and, in prominent language, that failure by the person to request a hearing within the fifteen-day period will act as a waiver of his right to a hearing and may result in the assessment of the cost of such removal against him personally. The person receiving the notice shall sign the notice as an acknowledgment that he has received a copy of the notice

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and a copy of the notice shall be provided to such person. If the person is not served personally, notice shall be given by certified mail with return receipt requested at the last known address.

If with due diligence the address cannot be ascertained or the return receipt shows that the person cannot be located, notice shall be given by publication in a newspaper of general circulation one time no less than fifteen (15) days prior to any removal. A notice shall also be served or sent to the private property owner upon which the abandoned property is located; and

- C. He cannot ascertain the person responsible for placing or leaving or causing the placing or leaving of the abandoned property on the private property, a notice may be mailed by certified mail to the owner, per the county assessor's office, of the real property upon which the abandoned property is located. A removal notice shall also be placed on or near the abandoned property as required by Section 8-305 and the building inspector shall proceed under Section 8-307.
- D. Failure or refusal to sign notice. If any person required by this section to sign a notice of abandoned property willfully fails or refuses to do so, the building inspector shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by the section.
- E. Building inspector may cause complaint to be filed. Provided that nothing herein shall limit the building inspector's ability to file a criminal complaint upon the person responsible for the placing or leaving or causing the placing or leaving of the abandoned property on private or public property. This shall be in addition to any other remedies provided herein or by any other city ordinance or state law. (Ord. No. 2084, 4/6/92)

SECTION 8-305 REMOVAL NOTICE.

Whenever the building inspector finds abandoned property which is located on private property, and regardless of whether a notice of abandoned property is served pursuant to Section 8-304, Subsection A or Subsection B, the building inspector may cause a notice to be placed on the abandoned property. If the building inspector cannot attach the removal notice to the abandoned property itself, he shall attach the notice to a substantial object as close to the abandoned property as possible, and this shall be deemed compliance with the posting requirement of this section. (Ord. No. 2084, 4/6/92)

SECTION 8-306 HEARING.

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Request for hearing. If the person who received a notice of abandoned property under Section 8-304, Subsection A or Subsection B or his agent timely requests a hearing before the building board of adjustment on the necessity for removal of the abandoned property, as provided in Section 8-305, a date shall be set, not more than ten (10) days after the date of the request, for the hearing. The timely filing of the request for a hearing shall operate as a stay of further action by the city under the chapter, until a decision is reached by the board. (Ord. No. 2084, 4/6/92)

SECTION 8-307 PROCEDURE FOR DISPOSITION OF ABANDONED PROPERTY.

- A. Return of building inspector. When abandoned property is found by the building inspector, he shall make a return thereof to the city attorney. The return shall:
1. Contain a description of the abandoned property;
 2. Give in detail the facts and circumstances under which it was found; and
 3. List all individuals, partnerships, corporations and unincorporated organizations known to the building inspector to be interested in the abandoned property. If the building inspector has served a notice of abandoned property pursuant to Section 3-304, and if he has caused the abandoned property to be stored, this shall be stated on the return, with necessary particulars.
- B. Proceedings for disposition. If the abandoned property has not been disposed or removed within the time allowed, the building inspector may cause the property to be disposed of in accordance with state law or the applicable building codes. (Ord. No. 2084, 4/6/92)

SECTION 8-308 ABANDONED PROPERTY DECLARED TO BE PUBLIC NUISANCE.

Abandoned property on private property is declared to be a public nuisance and the owner, custodian or occupant of the private property, as well as the owner, custodian, bailee or person entitled to possession of the abandoned property, shall not permit such public nuisance to arise or continue. The city attorney, at the request of the city manager or his designee, shall institute a civil action in the district court to:

- A. Apply for an injunction or restraining order, whether temporary or permanent, to prevent any person from maintaining or continuing to maintain a public nuisance contrary to the provisions of this section, or from failing or refusing to remove, terminate or abate any public nuisance;

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- B. Enjoin and abate a public nuisance declared by this section;
- C. Compel the performance of any act specifically required of any person to remove, terminate or abate any public nuisance; and
- D. Empower the building inspector, or a private contractor on behalf of the city, to enter upon any private property whereon a public nuisance exists or is maintained for the purpose of removing, terminating or abating such nuisance and prevent the person in possession of the private property from interfering with the city's representative while exercising this power in accordance with the court's order. Both the owner, custodian, bailee or person entitled to possession of the abandoned property shall be responsible for the removal, termination or abatement of the public nuisance.

(Ord. No. 2084, 4/6/92)

SECTION 8-309 VIOLATIONS.

Any person who:

- A. Commits any of the prohibited acts listed in Section 8-303, or aids in, procures or acquiesces in the commission of any of such prohibited acts; or
- B. Permits the creation, maintenance or continuation of a public nuisance contrary to Section 8-308, shall be guilty of an offense against the ordinance of the city.

(Ord. No. 2084, 4/6/92)

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SECTION 8-401 NUISANCE DEFINED; PUBLIC NUISANCES; PRIVATE NUISANCES.

- 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.

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- 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: Power to define and abate nuisances, 50 O.S. Sections 1.

SECTION 8-402 PERSONS RESPONSIBLE.

No person in charge or control of any property in the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow a nuisance to exist on the property. 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 therefor in the same manner as the one who first created it.

SECTION 8-403 TIME DOES NOT LEGALIZE.

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

SECTION 8-404 REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

- A. Prosecution on complaint before the municipal court;
- B. Prosecution on information or indictment before another appropriate court;
- C. Civil action; or
- D. Abatement:
 - 1. By person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or.
 - 2. By the city in accordance with law or ordinance.

SECTION 8-405 REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

- A. Civil action; and

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B. Abatement:

1. In any way renders other persons insecure in life or in the use of property. By person injured as provided in Sections 14 and 15 of Title 50 of the Oklahoma Statutes; or
2. By the city in accordance with law or ordinance.

SECTION 8-406 CITY HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCES.

As provided in Section 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.

SECTION 8-407 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:

- A. The sale, or offering for sale, of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;
- B. 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 ordinances of the city;
- C. 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;
- D. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;
- E. The keeping of a place where prostitution, illicit sexual intercourse, or other immoral acts are practiced;
- F. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;

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- G. 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;
- H. The public exposure of a person having a contagious disease;
- I. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises;
- J. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
- K. 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;
- L. 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;
- M. 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;
- N. 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;
- O. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
- P. Any pit, hole, or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
- Q. Any fire or explosion hazard which endangers the public safety;
- R. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
- S. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate and current safety inspection sticker as required by law for vehicles used on the public highways, when stored or kept in a residence district;

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- T. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this 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; and
- U. Every building or other structure that shall become unsafe and dangerous from fire, decay or 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, is hereby declared to be a nuisance.

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.

Cross Reference: See also Animals (Sects. 4-101 et seq.)

SECTION 8-408 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 city manager 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.
- B. The chief of the fire department, the chief of police, the city attorney, the health officer, the building inspector, the electrical inspector, the plumbing inspector, or any other officer subordinate to the city manager or any councilor or resident, may submit through or with the consent of the city manager to the code enforcement officer, a statement as to the existence of a nuisance as defined by the ordinances of the city or law, and a request or recommendation that it be abated.
- C. Upon receiving the complaint or observing the nuisance himself, the city manager or his designee will investigate the alleged nuisance. If he determines that a public nuisance exists, he will notify the person responsible for the nuisance. 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 and addresses are not known, and the public peace, health, safety, morals, or welfare 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. Such notice shall

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provide not less than ten (10) days nor more than sixty (60) days, at the discretion of the city manager or his designee, in which to abate such nuisance or to request a hearing as hereinafter set forth.

- D. If the person receiving the abatement notice wishes a hearing, he must request it in writing within ten (10) days and mail or file it with the city clerk. The hearing on his request will be before the city manager and will be held as soon as possible after the request is filed. The city manager shall render his decision by written memorandum and file the same with the city clerk, who shall thereupon mail a copy to the person or persons requesting the hearing at the last known mailing address.
- E. If the person responsible for a nuisance wishes to appeal the city manager's decision, he may request a hearing before the city council. Such request must be in writing and submitted to the city clerk within five (5) days after notice of the decision of the city manager is mailed to him.
- F. The city 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.
- G. If the city 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. If such peace, health, safety, morals, or welfare would 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 city council shall direct the city manager to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by Section 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 the names and addresses are known. Until paid, such cost shall constitute a debt to the city, collectible as other debts of the city may be collected.

SECTION 8-409 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 Section 17 of Title 50 of the Oklahoma Statutes.

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SECTION 8-410 COST OF ABATEMENT.

If the person responsible for the nuisance is unable to pay for its removal, the work may be done by the employees of this city under supervision of the city manager, or it may be let by contract to the lowest and best bidder, after appropriate notice, in the manner for letting other contracts.

SECTION 8-411 COST TO BE DETERMINED, STATEMENT OF COST TO BE SENT.

Upon the completion of the work ordered to be performed under Section 8-408 of this code, the city manager shall prepare a report on the cost thereof. Such report shall be itemized as to each tract, as follows: labor, machinery rental or depreciation, fuel and supplies, cost of notice, and other costs. The city manager shall determine the total actual costs of the work, and shall direct the city clerk to forward a statement and demand payment thereof by certified mail with return receipt requested to the owner of the property at the address shown by the current tax rolls in the office of the treasurer of the county in which the property lies. If the statement is not paid within twenty (20) days after such statement is mailed, the city council may direct the city attorney to institute action to establish its lien against the property on which such work was done and to request the court to cause such property to be sold and the lien paid.

SECTION 8-412 FAILURE TO PAY COSTS, COSTS TO BE CERTIFIED TO COUNTY TREASURER.

In the event the city does not elect to proceed by legal action as set forth herein, then six (6) months from the date of mailing the notice prescribed by Section 8-410 hereof, the city clerk shall forward a certified statement of the amount of such costs to the county treasurer of the county in which the property upon which the work was done is located, to be levied upon the property and to be collected by the county treasurer in the manner prescribed by the laws of this state.

SECTION 8-413 NUISANCE UNLAWFUL.

It is unlawful for any person, including but not limited to any owner, lessee, 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.

SECTION 8-414 DAMAGES AND PROSECUTION FOR PUBLIC OFFENSE.

The fact that the city has abated and removed a nuisance shall in no way excuse the party responsible therefor from any damages which may have resulted prior thereto. Neither shall the order of abatement prevent the chief of police or other person from filing a complaint where the nuisance constitutes a public offense. The chief of police may file complaint in each and every instance where the nuisance amounts to a public offense, and

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the person responsible therefor shall be prosecuted on such complaint; on determination of guilt, he shall be punished as provided for punishment of public offenses.

SECTION 8-415 HEALTH NUISANCES; ABATEMENT.

- A. Pursuant to authority granted by Section 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 reasonable, and a failure to do so shall constitute an offense. Such order shall 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 police officer, 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 be 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.

State Law Reference: Power to abate health nuisances, 63 O.S. Section 1-1011.

SECTION 8-416 TOILET FACILITIES REQUIRED; SEWAGE LAGOONS PROHIBITED; 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;

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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; and
 3. "Sanitary pit privy" means a privy which is built, rebuilt, or constructed so as to conform with the specifications approved by the State Health Department.
- B. Every owner of a residence or other building 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. 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 or a pit privy 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 this 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. Any privy shall be kept clean and sanitary at all times, and the covers of the seats of privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop, or anything other than human excrement and toilet paper shall be emptied into a privy. No excrement from any person suffering from typhoid fever, dysentery, or other serious bowel disease shall be deposited in any sanitary water closet until it is disinfected in such a manner as may be prescribed by the health officer.
- E. All facilities for the disposal of human excrement in a manner different from that required by this section, and all privies and 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.

Active Water Supply to Toilet Facilities. It shall be unlawful for any person to occupy or allow to be occupied any residential structure for more than two (2) hours in a twenty-four (24) hour period that has had the active water supply removed, disconnected, or discontinued, for any reason, from the toilet facilities of the structure. Any interruptions to

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the water supply caused by malfunctions or repairs by authorized City of Sapulpa personnel are excluded from this provision.

SECTION 8-417 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.

SECTION 8-418 PENALTY.

Any person, firm or corporation who violates any of the provisions of this chapter or shall allow the premises occupied to become unsanitary, or who shall in any manner violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 1-108 of this code.

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CHAPTER 5

DILAPIDATED BUILDINGS

Section 8-501	Definitions.
Section 8-502	Report to be Made.
Section 8-503	Condemnation, Boarding and Securing of Dilapidated Buildings, Notice, Removal, Lien, Payment.
Section 8-504	Clearing up of Premises from which Buildings have been Removed.
Section 8-505	Penalty.

SECTION 8-501 DEFINITIONS.

For the purposes of this chapter:

"Administrative officer" means the city manager or his designee;

"Boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure;

"Cleaning" or "cleaned" means the removal of trash or weeds from the premises;

"Dilapidated building" means the neglect of necessary repairs to a building or allowing it to fall into a state of decay or allowing it to fall into partial ruin to such an extent that the building is a hazard to the health or safety or welfare of the general public; and

"Unsecured building" means 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.

(Ord. No.2087, 10/19/92)

State Law Reference: Similar provisions, Section 22-112, 22-112.1 of Title 11.

SECTION 8-502 REPORT TO BE MADE.

Any officer or employee of this city who discovers or receives a report of a dilapidated building which has become detrimental to the health, benefit and welfare of the public and the community or creates a fire hazard to the danger of property, shall report such conditions to the administrative officer.

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SECTION 8-503 CONDEMNATION, BOARDING AND SECURING OF DILAPIDATED BUILDINGS, NOTICE, REMOVAL, LIEN, PAYMENT.

The administrative officer may cause dilapidated buildings within the city limits to be torn down and removed, or boarded or secured, in accordance with the following procedure:

- A. At least fifteen (15) days' notice shall be given to the owner of the property before the city takes action or holds a hearing as provided herein. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the city 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 by Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice may be published once not less than ten (10) days prior to any hearing or action to be taken pursuant to this section;
- B. A hearing shall be held by the administrative officer to determine whether the property is dilapidated and has thereby become detrimental to the health, benefit and welfare of the public and the community, or creates a fire hazard to the danger of property, or needs to be boarded and secured;
- C. If the administrative officer finds that the condition of the property constitutes a detriment or a hazard, and that the property would be benefitted by the removal of such conditions, or by its boarding and securing, the administrative officer may cause the dilapidated building to be torn down and removed, and boarded and secured, and shall fix reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of lien with the county clerk describing the property, the findings of the administrative officer at the hearing, and stating that the city claims a lien on the property for the destruction and removal, boarding and securing costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice;
- D. The property owner shall have a right of appeal to the city manager from a order of the administrative officer, or if the order is rendered by the city manager, then the right to appeal is to the city council. The appeal shall be

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filed in writing with the city clerk within ten (10) days after the administrative order is rendered;

- E. If the work is not performed by the property owner within the dates fixed by the administrative officer, the administrative officer shall direct the tearing down and removal, or boarding and securing, be done by one of the following methods:
 - 1. By the city; or
 - 2. On a private contract basis, in which case it shall be awarded to the lowest and best bidder.
- F. After the building has been torn down and removed, or boarded and secured, the administrative officer shall determine the actual cost of the dismantling and removal of dilapidated buildings, or the boarding and securing, and any other expenses as may be necessary in conjunction therewith, including the cost of notice and mailing. The city clerk shall forward a statement of such actual cost attributable to the dismantling and removal or boarding and securing and a demand for payment by mail to the property owner at the address specified in this section. In addition, a copy of the statement shall be mailed to any mortgage holder at the address specified in this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city 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;
- G. If payment is not made within six (6) months from the date of the mailing of the statement, 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. The city shall have a lien on the property for such costs, together with interest thereon, and the lien shall continue until the cost shall be fully paid;
- H. When payment is made to the city for costs incurred, the city shall file a release of lien or part thereof;
- I. The provisions of this section shall not apply to any property zoned and used for agricultural purposes; and
- J. Nothing in this section shall prevent the city from otherwise abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the public health, safety or welfare.

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State Law Reference: 11 O.S. Section 22-112, removal of dilapidated buildings.

SECTION 8-504 CLEARING UP OF PREMISES FROM WHICH BUILDINGS HAVE BEEN REMOVED.

In all cases in which:

- A. A house or building has been removed before the taking effect of this chapter; or
- B. A house or building is torn down or demolished pursuant to order of the State Fire Marshal or one of his assistants or the sheriff of the county or the chief of the fire department as provided by state law or as provided in this chapter; and in which any of the following conditions exist;
- C. The premises have not been cleaned up;
- D. The premises are cleaned up, and all lumber, brick, concrete, cement, plaster, nails, wire, and other material have not been removed;
- E. The materials removed but the cellar space and excavations have not been filled;
- F. A cistern or well has not been filled or safely and securely closed and all openings to sanitary sewer have not been plugged to meet the requirements of the city plumbing inspector and securely closed; and
- G. The lot or lots have not been leveled and left entirely free from trash or the same be not immediately done, then the owner or owners of the lot or lots and the person, firm, or corporation who tore down the house or building shall immediately comply with the provisions of this chapter by having all of the things done.

SECTION 8-505 PENALTY.

Any person who shall tear down or begin the tearing down of any house or building within the city limits of the city without having first procured permit therefor as herein provided shall be guilty of an offense against the city and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

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CHAPTER 6

ENFORCEMENT AND PENALTY

Section 8-601	County Health Department Designated to Enforce Health Ordinances.
Section 8-602	Obstructing Health Officer.
Section 8-603	Penalty.

SECTION 8-601 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it may be construed to mean the director of the city-county cooperative health department or his duly designated representative unless another person is designated by the manager of the city. It is the intent and purpose of the 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 city council upon an appeal from an offender.

SECTION 8-602 OBSTRUCTING HEALTH OFFICER.

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

SECTION 8-603 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.

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CHAPTER 7

TOBACCO REGULATIONS

Section 8-701 Tobacco Use in City Parks Prohibited.
Section 8-702 Definitions.

SECTION 8-701 TOBACCO USE IN CITY PARKS PROHIBITED.

- A. The use of tobacco is a public nuisance, is dangerous to the health of both adults and children, and sets an unhealthy example for the City of Sapulpa's youth and children. Therefore, the use of tobacco product in any form is hereby prohibited in all city-owned parks. The use of tobacco product in any form shall also be prohibited in and around all public restrooms located in city-owned parks, and in and around all parking lots adjacent to city-owned parks.
- B. For purposes of this section, a "city-owned park" shall be defined as any parcel of open land which is owned by the City of Sapulpa and used for recreational activities, including, but is not limited to, dog parks, parks, picnic areas, gardens, playgrounds, walking paths, hiking trails, bike paths, riding trails, swimming pools, skateboard parks, and fields used for sporting practice or events. However, the provisions of this ordinance shall not be applicable to the Sapulpa Municipal Golf Course, Sahoma Lake, or Pretty Water Lake.
- C. Any person who knowingly violates this section is guilty of a misdemeanor, and upon conviction thereof, shall be punished by imposition of a fine of ten dollars (\$10.00) excluding costs, fees and assessments. Any second or subsequent conviction shall be punished by imposition of a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) excluding costs, fees and assessments.

SECTION 8-702 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Tobacco product" means any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes cigarettes, cigars, chewing

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tobacco, smokeless tobacco, e-cigarettes and vapor products, with or without nicotine;

"Vapor product" means noncombustible products that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food, Drug and Cosmetic Act.