

CITY OF CHERRYVALE

**MEETING OF THE CITY COUNCIL
REGULAR MEETING
JULY 6, 2015
7:00 PM**

Working for a better tomorrow... today.

ORDER OF BUSINESS

CALL MEETING TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

NEW BUSINESS

A. SETTING BUDGET WORKSHOP

Presented by Travis Goedken, City Administrator

RECOMMENDED ACTION: Set a date, time and location for a final budget workshop.

B. CONSENT AGENDA

Presented by John Wright, Mayor

RECOMMENDED ACTION: Approve the consent agenda as presented.

- 1. Appropriations & Payroll Ord. No. 15-0618 \$105,702.07
 - a. Approval of Purchases over \$5,000
 - i. Blue Cross-Blue Shield \$9,796.82
 - ii. Cherryvale Library Treasurer \$18,243.16
 - iii. Republic Services \$8,585.09
- 2. Appropriations & Payroll Ord. No. 15-0702 \$88,768.19
 - a. Approval of Purchases over \$5,000
 - i. Public Wholesale Water \$24,333.33
- 3. Consideration of the minutes for June 15, 2015 Regular Meeting

INFORMATIONAL ITEMS

- 1. Community Center Advisory Board – Sylvia Shaffer
- 2. Department Monthly Reports
 - a. Police
 - b. Fire
 - c. Public Works
 - d. City Clerk
 - e. City Administration
- 3. Lawn of the Month

WORKSHOP

1. Chapter 8, Article 1: Health Nuisances
2. Chapter 8, Article 2: Junk Vehicles
3. Chapter 8, Article 3: Weeds
4. Chapter 8, Article 6: Environmental Code

ADJOURNMENT

CITY COUNCIL ACTION REPORT

Proposed Agenda Date: July 6, 2015

Subject: Setting Budget Workshop

Guest: None

Background: Staff is finalizing a budget to propose to the governing body for 2016. We have just now hit the midway point for 2015 and are able to have a better estimate for our totals this year.

Financial Consideration: None

Legal Consideration: None

Policy Consideration: This is not the setting of the budget hearing, that will be done at the next meeting.

Recommendation: Set a date, time and location to have a final budget workshop before we set the hearing at the next regular meeting. I would propose Tuesday, July 14th at 3:00 PM in the Council Chambers. This would allow sufficient time to balance the month of June and plug in our final numbers; and also time to finalize changes before the regular meeting on July 20th when we plan to set the hearing for August 3rd.

CITY OF CHERRYVALE

Warrant Ordinance Number: 15-0618 Date: Thursday, June 18, 2015
 Detail of Checks Processed On Thursday, June 18, 2015

Bk	Chk Numb and Date	Vendor Number & Name	Voucher Num and Date	Voucher Amt	Memo
0	20914 06/18/15	00079 AIRGAS USA, LLC	20150444 06/15/15	98.79	INVOICE #9040167566 & #9927602784
	20915	00240 ARAMARK UNIFORM SERVICES	20150434 06/12/15	340.66	ACCT #792406665
	20916	6770 BARRY BEURSKENS	20150435 06/12/15	200.00	INVOICE #2015-3 & #2015-4
	20917	00600 BLUE CROSS-BLUE SHIELD	20150438 06/15/15	9,449.04	Health Insurance Premiums for July 2015
			20150439 06/15/15	347.78	Dental Insurance Premiums for July 2015
			Check Total	9,796.82	
0	20918 06/18/15	00790 BUMPER TO BUMPER AUTO PARTS	20150461 06/16/15	139.98	ACCT #20225
	20919	01250 CHERRYVALE LIBRARY TREASURER	20150436 06/12/15	18,243.16	THIRD DISTRIBUTION OF 2015
	20920	00866 CJ's THREADS EMBROIDERY, LLC	20150466 06/16/15	127.00	INVOICE #12766
	20921	01824.5 COX COMMUNICATIONS	20150453 06/16/15	50.44	ACCT #001 1012 072462501
	20922	02087 DIGITAL CONNECTIONS	20150476 06/18/15	32.85	INVOICE #35775
	20923	6633 eCIVIS, INC.	20150443 06/15/15	697.50	INVOICE #104386
	20924	02256 EMERGENCY MEDICAL PRODUCTS INC	20150470 06/18/15	1,541.42	INVOICE #1743054
	20925	02260 EMERT, CHUBB & GETTLER, LLC	20150437 06/12/15	1,073.00	STATEMENT #28122
	20926	02605 GALLAGHER BENEFIT SERVICES, IN	20150433 06/10/15	416.50	June 2015 Employee Benefits Consulting
	20927	03175 HD SUPPLY WATERWORKS, LTD	20150458 06/16/15	320.60	INVOICE #D914056
	20928	03275 HUGO'S INDUSTRIAL SUPPLY, INC.	20150471 06/18/15	57.35	INVOICE #133133
	20929	02125.5 KDHE-BUREAU OF WATER	20150457 06/16/15	20.00	WATER CERTIFICATION
	20930	04225 LABETTE COMMUNITY COLLEGE	20150467 06/18/15	20.00	FIRE SCHOOL FOR ANDREW SMEDLEY
	20931	04500 LINN'S AIR COOLED ENGINES	20150465 06/16/15	101.34	SERVICE ORDER #2226865
	20932	05011 M & B CONTRACTING	20150468 06/18/15	81.25	INVOICE #908037
	20933	05010 MCCARTY'S	20150446 06/16/15	337.26	ACCT #10480
	20934	09023.2 MERCY CLINIC KANSAS COMM.	20150442 06/15/15	1,250.00	Pre-Employment Physicals
	20935	05235 MONTGOMERY COUNTY ACTION	20150451 06/16/15	40.00	2015 MCAC ANNUAL MEETING & BBQ
	20936	01100 MONTGOMERY COUNTY CHRONICLE	20150445 06/15/15	99.40	INVOICE #1000 & #1001
	20937	05750 NEWTON'S	20150474 06/18/15	208.56	ACCT #63007
	20938	06210 POSTMASTER	20150448 06/16/15	330.00	WATER BILL POSTAGE
	20939	00800 RAILROAD MANAGEMENT CO.	20150450 06/16/15	321.56	INVOICE #319400 & #319425
	20940	06580 REPUBLIC SERVICES	20150478 06/18/15	8,585.09	ACCT #3-0376-1067335
	20941	06588 RICHARD L. HINES, P.A.	20150447 06/16/15	450.00	MUNICIPAL COURT JUDGE
	20942	06761 SANDBAGGER GOLF & TURF	20150459 06/16/15	40.90	INVOICE #11295
	20943	06808 SELLERS EQUIPMENT, INC.	20150463 06/16/15	675.67	CUSTOMER #15620
	20944	07380 SUNFLOWER FARMS	20150462 06/16/15	230.00	INVOICE #6251
	20945	07379 SURENCY LIFE AND HEALTH	20150440 06/15/15	138.00	Vision Insurance Premiums for July 2015
	20946	6784 TRIM, MICHAEL D.	20150469 06/18/15	600.00	INVOICE #0001
	20947	07680 UNITED STATES POSTAL SERVICE	20150449 06/16/15	500.00	POSTAGE

CITY OF CHERRYVALE

Warrant Ordinance Number: 15-0618 Date: Thursday, June 18, 2015
Detail of Checks Processed On Thursday, June 18, 2015

Bk	Chk Num and Date	Vendor Number & Name	Voucher Num and Date	Voucher Amt	Memo
0	20948 06/18/15	07669 UNUM LIFE INSURANCE COMPANY	20150460 06/16/15	227.09	Life/AD&D/STD Insurance Premiums for July 2015
	20949	07807 WAGEWORKS	20150473 06/18/15	56.00	FSA Service Fees for May 2015
	20950	07970 WESTAR ENERGY	20150452 06/16/15	3,729.23	ACCT #9246063908
	20951	02590 WEX BANK	20150477 06/18/15	2,663.75	INVOICE #41208036
	20952	08400 ZOLL MEDICAL CORPORATION	20150441 06/15/15	28.45	INVOICE #2222483
	20150619 06/19/15	00914 CARD SERVICES	20150454 06/16/15	327.84	C. WEINER P-CARD
			20150455 06/16/15	256.75	J. REED P-CARD
			20150456 06/16/15	664.02	W. WEBBER P-CARD
			20150472 06/18/15	2,416.43	P. LAMBERT P-CARD
			20150475 06/18/15	57.28	T. GOEDKEN P-CARD
			Check Total	3,722.32	
			Grand Total	57,591.94	

48,110.13 Payroll

Total \$105,702.07

Passed this _____ day of _____.

Signed this _____ day of _____.

Mayor

Attest:

City Clerk

BANK NO CHECK NO	BANK NAME DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
7 COMM. NATIONAL BANK & TRUST							
Thru 20953			Payroll Checks				
20976							
20977	7/02/2015	1440	CITY OF CHERRYVALE	439.00			
20978	7/02/2015	9214	KANSAS PAYMENT CENTER	459.23			
20979	7/02/2015	9225	CITY OF CHERRYVALE	545.81			
20980	7/02/2015	9230	SECURITY BENEFIT	119.39			
20981	7/02/2015	375	B & B AUTOMOTIVE REPAIR	435.68			
20982	7/02/2015	464	BAUGHER EQUIPMENT, INC.	374.15			
20983	7/02/2015	866	CJ'S THREADS EMBROIDERY, LLC	51.00			
20984	7/02/2015	9235	CLIFTON, PAUL	299.45			
20985	7/02/2015	2256	EMERGENCY MEDICAL PRODUCTS INC	618.89			
20986	7/02/2015	2725	GOEDKEN, TRAVIS	138.00			
20987	7/02/2015	3175	HD SUPPLY WATERWORKS, LTD	3.75			
20988	7/02/2015	3270	HUBER & ASSOCIATES, INC	200.00			
20989	7/02/2015	3275	HUGO'S INDUSTRIAL SUPPLY, INC.	5.50			
20990	7/02/2015	5880	KANSAS ONE-CALL SYSTEM, INC.	21.00			
20991	7/02/2015	3970	KANSAS STATE TREASURER	348.50			
20992	7/02/2015	3998	KELEMAN, EDWARD	4,000.00			
20993	7/02/2015	4260	LATTIN LAW OFFICES, CHARTERED	800.00			
20994	7/02/2015	4300	LEAGUE/KANSAS MUNICIPALITIES	250.00			
20995	7/02/2015	5010	MCCARTY'S	178.69			
20996	7/02/2015	5033	MEDICLAIMS, INC.	1,607.59			
20997	7/02/2015	5235	MONTGOMERY COUNTY ACTION	20.00			
20998	7/02/2015	1100	MONTGOMERY COUNTY CHRONICLE	56.70			
20999	7/02/2015	5695	NATIONAL SIGN COMPANY	146.64			
21000	7/02/2015	5760	NEWTON BUILDINGS, INC.	105.00			
21001	7/02/2015	5750	NEWTON'S	.00	**CLEARED**	**VOIDED**	
21002	7/02/2015	5750	NEWTON'S	805.32			
21003	7/02/2015	6176	PITNEY BOWES, INC.	145.50			
21004	7/02/2015	6285	PUBLIC WHOLESALE WATER	24,333.33			
21005	7/02/2015	6674	ROBERTS, BILLY D.	169.89			
21006	7/02/2015	7745	UNITED STATES CELLULAR	122.61			
21007	7/02/2015	7803	VERIZON WIRELESS	31.67			
21008	7/02/2015	7925	WEIS FIRE & SAFETY EQUIPMENT	81.00			
21009	7/02/2015	7970	WESTAR ENERGY	.00	**CLEARED**	**VOIDED**	
21010	7/02/2015	7970	WESTAR ENERGY	.00	**CLEARED**	**VOIDED**	
21011	7/02/2015	7970	WESTAR ENERGY	4,576.37			
Thru 201			Payroll Checks				
2701							
15175001	7/02/2015	914	CARD SERVICES	846.54		**E-PAY**	
15175002	7/02/2015	914	CARD SERVICES	107.02		**E-PAY**	
15175006	7/02/2015	914	CARD SERVICES	376.74		**E-PAY**	
15175013	7/02/2015	9200	PEOPLES STATE BANK	9,120.23		**E-PAY**	
15175014	7/02/2015	9201	KANSAS WITHHOLDING TAX	1,125.21		**E-PAY**	
15175015	7/02/2015	9203	KPERS	5,227.52		**E-PAY**	
15175016	7/02/2015	2100	RETAILERS' SALES TAX DIV	530.67		**E-PAY**	

BANK NO CHECK NO	BANK NAME DATE	VENDOR NO VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
BANK TOTAL			58,823.59			
OUTSTANDING			58,823.59			
CLEARED			.00			
VOIDED			.00			
FUND			TOTAL	OUTSTANDING	CLEARED	VOIDED
100	GENERAL OPERATING FUND		27,028.04	27,028.04	.00	.00
200	SPECIAL HIGHWAY FUND		1,438.20	1,438.20	.00	.00
296	COPS GRANT		492.10	492.10	.00	.00
700	WATER O & M FUND		26,822.55	26,822.55	.00	.00
715	WWTP & S.S. O & M FUND		3,042.70	3,042.70	.00	.00
REPORT TOTAL			58,823.59			
OUTSTANDING			58,823.59			
CLEARED			.00			
VOIDED			.00			

\$29,944.60 Payroll

\$88,768.19 Total

**CITY OF CHERRYVALE
MEETING OF THE CITY COUNCIL
REGULAR MEETING
JUNE 15, 2015
7:00 PM**

Working for a better tomorrow... today.

ORDER OF BUSINESS

CALL MEETING TO ORDER

Mayor Wright called the meeting to order at 7:00 P.M.

Present: Mayor Wright, Council President Wickham, Council Member Forman, Council Member Wagoner, Council Member King, City Administrator Goedken, City Clerk /Assistant City Administrator Chris Weiner, Cherryvale Housing Authority Director Diantha Jewett, Cherryvale Head Librarian April Read, Neil Phillips (Jared, Gilmore, & Phillips), Donna Celaya (Montgomery County Chronicle), Sharon Driskel, James Hogben and Shirley Ann Hogben.

INVOCATION

Council Member Wagoner led the invocation.

PLEDGE OF ALLEGIANCE

All present participated.

ROLL CALL

City Clerk Chris Weiner took roll:

Mayor Wright – present; Council President Wickham – present; Council Member Forman – present; Council Member Wagoner – present; Council Member King – present.

A quorum was present.

PUBLIC FORUM

Sharon Driskel – *Addressed her legal rights as a property owner and stated that she feels that if the City widens the street at the corner of Maple and Main, the street should be widened by taking property from the Jumpstart (west) side of the street rather than her property (east side). She claimed that both Public Works Director Wade Webber and City Clerk Chris Weiner told her husband, Glen Driskel, that the City was going to take twenty feet of their property in order to widen the street.*

GOVERNING BODY COMMENTS

Mayor John Wright – *Indicated that if police dispatch is not being effectively managed through the Sheriff's office, that he would like the City to consider alternatives.*

Council Member Chad Wickham – *Said that he felt disrespect for the police and fire departments. He called the police department four times in one day and it was not answered by a Cherryvale officer any of the four times. Mentioned that he does not think the department is busy enough to warrant not responding to citizen complaints. He was extremely disappointed in the fire department because they sent a nuisance violation letter when they knew the resident had a recent death in the family. He indicated his feelings that nuisance violations are a waste time and resources that would be better*

spent elsewhere. He also mentioned that he called the fire department and requested that they notify and have a police officer call him and that he never received that call even nine days later.

Council Member Don King – Voiced his opposition to the suspension of issuing nuisance violations and mentioned that nuisances are an issue throughout town. Said that weeds and nuisance problems create a bad first impression for potential residents and that eliminating code enforcement would exacerbate that problem.

Council Member Randy Wagoner – Said he did not disagree with what had been previously said but that he doesn't want to slack off making the community a better place. He acknowledged that he felt the City could do a better job at handling its own properties. He wanted the Governing Body to keep in mind that people aren't perfect but we need to remember the police put their lives on the line to protect us and the community and that we shouldn't beat up on our own people. He said he appreciates what our police, fire, public works, and city hall staff does. He advocated that we could and need to be better as an organization and tasked City Administrator Goedken to encourage our city staff to be better.

Council Member Lew Forman, Jr. – Suggested that the City suspend issuing nuisance violations until the City cleans up its own property and responsibilities and another property owner in town, whose property has a significant amount of current nuisance issues, cleans up his property. He wanted to know when the property in question would be dealt with.

NEW BUSINESS

A. AUDIT PRESENTATION FOR FY2014

Presented by Neil Phillips, CPA

RECOMMENDED ACTION: Receive and file the audit for FY2014 and authorize staff to sign the management representation letter.

Council Member Wagoner motioned to authorize city staff to sign the management representation letter, Council President Wickham seconded.

All votes aye.

B. PROPOSED ORDINANCE 15-4664: BOND REQUIRED REMOVAL

Presented by Travis Goedken, City Administrator

RECOMMENDED ACTION: Take appropriate action.

Council Member Wagoner motioned to accept the proposed edits to Ordinance 15-4664, Council President Wickham seconded.

City Clerk Chris Weiner took the roll call vote:

Council Member Forman – aye; Council Member Wagoner – aye; Council President Wickham – aye; Council Member King – aye.

Motion passed 4-0.

C. HOME OCCUPATION PERMIT AT 501 E 3RD – HOWARD HESTER D/B/A S & H STRANDED MOTORIST AND SMALL ENGINE

Presented by Chris Weiner, City Clerk/Assistant City Administrator
RECOMMENDED ACTION: Do not issue Home Occupation Permit.

Council Member Wagoner motioned to go with the Planning and Zoning Commission's recommendation to deny the home occupation permit and encouraged the proprietor to pursue other avenues, Council Member King seconded.

Mayor Wright mentioned that he knows the proprietor, Mr. Hester, and that he is a good character man who performs a service Cherryvale desperately needs. He does not want to lose his service in the community.

All votes aye.

D. B&L TRENCHING 4TH OF JULY CELEBRATION

Presented by Travis Goedken, City Administrator

RECOMMENDED ACTION: Designate celebration as community event to allow people in Logan Park after curfew and waive rental fee.

Council Member Wagoner motioned to designate the B&L Trenching 4th of July celebration as a community event and to waive the municipal pool entrance fees on July 4th from 6-9 p.m., Council President Wickham seconded.

All votes aye.

E. USDA GRANT APPLICATION

Presented by Travis Goedken, City Administrator

RECOMMENDED ACTION: Authorize staff to apply for grant.

Council Member Wagoner motioned to authorize city staff to pursue a grant that would pay for well over half of a vehicle to supply the Cherryvale Police Department with resources to protect the lives of Cherryvale residents.

The motion died due to lack of a second.

F. CONSENT AGENDA

Presented by John Wright, Mayor

RECOMMENDED ACTION: Approve the consent agenda as presented.

- | | |
|---|-------------|
| 1. Appropriations and Payroll Ord. No. 15-0605: | \$91,600.44 |
| a. Approval of Purchases over \$5,000 | |
| i. Community National Bank | \$6,246.47 |
| ii. Public Wholesale Water | \$24,333.33 |
| 2. Consideration of the minutes for June 1 st , 2015 Regular Meeting | |
| 3. Consideration of the minutes for June 4 th , 2015 Special Meeting | |

Council Member Wagoner motioned to approve the consent agenda as presented, Council Member Forman seconded.

All votes aye.

INFORMATIONAL ITEMS

1. Legislative Update
2. July Men's Breakfast
3. Independence Recycling Forums

ADJOURNMENT

Council President Wickham motioned to adjourn the meeting at 8:47 P.M., Council Member Forman seconded.

All votes aye.

Respectfully submitted,

Christopher T. Weiner, City Clerk

ARTICLE 1. HEALTH NUISANCES

8-101. Nuisances unlawful; defined.

It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- (b) All dead animals not removed within 24 hours after death;
- (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
- (d) All stagnant ponds or pools of water;
- (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
- (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
- (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
- (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
(K.S.A. 21-4106:4107; Code 2001, 6-103; Code 2014)

8-102. Public officer.

The mayor or city administrator shall designate a public officer to be charged with the administration and enforcement of this article.

(Code 2014)

8-103. Complaints; inquiry and inspection.

The public officer shall make inquiry and inspection of premises upon receipt of a complaint stating that a nuisance exists and describing the same and where located, or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

(Code 2014)

8-104. Same; right of entry.

(a) Whenever necessary to make an inspection of any building, structure or premises to determine if a nuisance exists, or whenever the public officer has cause to believe that there exists therein any condition which endangers the

public health, the public officer is authorized to enter such building, structure or premises at all reasonable times to inspect the same and to exercise any power or authority or to perform any duty imposed upon the public officer under this code.

(b) The authority granted to the public officer by subsection (a) of this section is subject to the following:

- (1) If the building, structure or premises is occupied, the public officer shall first present proper credentials, explain the purpose for which admittance is desired and demand entry.
- (2) If such property is unoccupied, the public officer shall first make a reasonable effort to locate the owner or other person having charge or control of the property, present proper credentials, explain the purpose for which admittance is desired and demand entry.
- (3) If the public officer is refused admission or cannot locate the owner or occupant, the public officer shall refrain from entering until authorized to do so by proper judicial authority.

(Code 2014)

8-105. Order of violation.

(a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-101 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 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.

(K.S.A. 12-1617e; Code 2001, 6-103; Code 2014)

8-106. Same; contents.

The order shall state the condition(s) which is (are) in violation of section 8-101. The order shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 10 days from the date of mailing the order to abate the condition(s) in violation of section 8-101; provided, however, that the governing body (or its designee named in section 8-105) shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-101; or,

(b) He, she or they have 10 days from the date of mailing the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by section 8-109;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-107 and/or abatement of the condition(s) by the city as provided by section 8-108.

(Code 2014)

8-107. Failure to comply; penalty.

Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-101, be fined in an amount not to exceed \$500 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(Code 2014)

8-108. Abatement.

(a) In addition to, or as an alternative to prosecution as provided in section 8-107, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-105 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-106, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-110. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (1) Personal service upon the person in violation;
- (2) Certified mail, return receipt requested; or
- (3) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (4) 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.

(Code 2014)

8-109. Hearing.

If a hearing is requested within the 10 day period as provided in section 8-106, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-108.

(Code 2014)

8-110. Costs assessed.

If the city abates or removes the nuisance pursuant to section 8-108, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following 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.

(Code 2014)

ARTICLE 2. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

8-201. Findings of governing body.

The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens, of the city because they:

- (a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
- (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
- (c) Are a ready source of fire and explosion;
- (d) Encourage pilfering and theft;
- (e) Constitute a blighting influence upon the area in which they are located;
- (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(Code 2001, 6-301; Ord. 13-4637; Code 2014)

8-202. Definitions.

As used in this article, unless the context clearly indicates otherwise:

- (a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
- (b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

(Code 2001, 6-302; Ord. 13-4637; Code 2014)

8-203. Nuisances unlawful; defined; exceptions.

It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

(a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:

- (1) Absence of a current registration plate upon the vehicle;
- (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
- (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

(b) The provisions of this section shall not apply to:

- (1) Any motor vehicle which is enclosed in a garage or other building;
- (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
- (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.
(Code 2001, 6-303; Ord. 13-4637; Code 2014)

8-204. Public officer.

The City of Cherryvale shall designate a public officer to be charged with the administration and enforcement of this article.

(Code 2001, 6-304; Ord. 13-4637; Code 2014)

8-205. Complaints; inquiry and inspection.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

(Code 2001, 6-305; Ord. 13-4637; Code 2014)

8-206. Right of entry.

It shall be a violation of this article to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

(Code 2001, 6-306; Ord. 13-4637; Code 2014)

8-207. Notice.

Any person found by the public officer to be in violation of Section 8-203 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Montgomery County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer.

(Code 2001, 6-307; Ord. 13-4637; Code 2014)

8-208. Same; contents.

The notice shall state the condition(s) which is (are) in violation of Section 8-203. The notice shall also inform the person that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 8-203; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 8-212;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as

provided by Section 8-209 and/or abatement of the condition(s) by the city as provided by Section 8-210.
(Code 2001, 6-308; Ord. 13-4637; Code 2014)

8-209. Failure to comply; penalty.

Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of Section 8-203, be fined in an amount not to exceed \$500 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(Code 2001, 6-309; Ord. 13-4637; Code 2014)

8-210. Abatement.

In addition to, or as an alternative to prosecution as provided in Section 8-209, the public officer may seek to remedy violations of this article in the following manner:

(a) If a person to whom a notice has been sent pursuant to Section 8-207 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time period specified in Section 8-208, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

(b) The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-213.

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

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

(d) Alternatively, if a person is convicted in municipal court, the court may order agents of the city to abate the conditions at the expense of said person. Should the abatement be ordered in municipal court then the associated costs may be recovered through municipal court of the same methods as described above.

(Code 2001, 6-310; Ord. 13-4637; Code 2014)

8-211. Disposition of vehicle.

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

(Code 2001, 6-311; Ord. 13-4637; Code 2014)

8-212. Hearing.

If a hearing is requested within the 10 day period as provided in Section 8-208, such request shall be made in

writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in Section 8-210.

(Code 2001, 6-312; Ord. 13-4637; Code 2014)

8-213. Costs assessed.

If the city abates the nuisance pursuant to Section 8-210, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

(Code 2001, 6-313; Ord. 13-4637; Code 2014)

ARTICLE 3. WEEDS

8-301. Weeds to be removed.

It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private except that no adjoining private landowner shall have the duty to mow all weeds or grass on public property where the ditch has a grade steeper than thirty (30) degrees. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(Code 2001, 6-106; Ord. 13-4636; Ord. 14-4641; Code 2014)

8-302. Definitions.

Weeds as used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which bear or may bear seeds of a downy or wingy nature.
- (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
- (e) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(Code 2014)

8-303. Public officer; notice to remove.

(a) The Mayor shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this article, by certified mail or by personal service, once per calendar year.

(b) Such notice shall include the following:

- (1) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
- (2) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within five days of issuance.
- (3) That the owner, occupant, or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of issuance.
- (4) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting including a reasonable

administrative fee, against the owner, occupant or agent in charge of the property.

- (5) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and if it is not paid, it will be added to the property tax as a special assessment.
- (6) That no further notice shall be given prior to removal of weeds during the current calendar year.
- (7) That the public officer should be contacted if there are any questions regarding the order.
- (8) 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 this article, be fined in an amount not to exceed \$500 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.

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

(Code 2001, 6-106; Ord. 13-4636; Code 2014)

8-304. Abatement; assessment of costs.

(a) Upon the expiration of five days after receipt of the notice required by Section 8-303, and in the event that the owner, or occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section 8-301, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by mail, of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

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

(K.S.A. 12-1,115; K.S.A. 12-1617f; Code 2001, 6-106; Ord. 13-4636; Code 2014)

8-305. Publication of notice to property owners.

(a) The City Clerk shall, at least once each year during the normal growing season, cause to be published in the official City paper a notice in substantially the following form:

Notice to Property Owners and persons in charge of property:

All property owners and persons in charge of property or possession of any tract, lot or piece of land in the City of Cherryvale, are hereby notified that all weeds, rank grass, and obnoxious vegetation now growing on private property in the City of Cherryvale, Kansas, Montgomery County, must be cut and removed in five (5) days.

(Code 2001, 6-106; Ord. 13-4636; Code 2014)

8-306. Alternate or supplemental method of collecting costs and charges.

After determining the costs and charges for the city's cutting and removing weeds, rank grass, or obnoxious vegetable growth from each specific lot or piece of land, and the parkways in front thereof the City Clerk shall, within ten (10) days thereafter, mail a statement of costs to the last known address of the occupant or persons in charge of such property. If such costs are not paid within thirty (30) days from the date of mailing such notice City may file a civil action to enforce collection thereof.

(Code 2001, 6-106; Ord. 13-4636; Code 2014)

ARTICLE 6. ENVIRONMENTAL CODE

8-601. Title.

This article shall be known as the “Environmental Code.”

(Code 2014)

8-602. Legislative finding of fact.

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

(Code 2014)

8-603. Purpose.

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

(Code 2014)

8-604. Rules of construction.

For the purpose of this article, the following rules of construction shall apply:

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

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

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

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

(e) Shall - The word shall is mandatory and not permissive.

(Code 2014)

8-605. Definitions.

The words and phrases listed below when used in this article shall have the following meanings:

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

own power; or in a junked or wrecked condition.

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

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

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

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

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

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

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

(i) Refuse - garbage and trash.

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

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

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

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

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

(Code 2014)

8-606. Public officer.

The mayor or city administrator shall designate a public officer to be charged with the administration and enforcement of this article.

(Code 2014)

8-607. Enforcement standards.

No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under Section

8-208 but shall not include conditions which are not readily visible from any public place or from any surrounding private property.

(Code 2014)

8-608. Unlawful acts.

It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

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

- (1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;
- (2) abandoned motor vehicles; or
- (3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.
- (4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

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

- (1) exteriors of any structure;
- (2) exteriors of any accessory structure; or
- (3) fences, walls, or retaining walls.

(Code 2014)

8-609. Order of violation.

(a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-608 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

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

- (1) The condition which has caused the violation of this article; and
- (2) That the person in violation shall have:

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

(B) 45 days from the receipt of the order to alleviate the exterior conditions (structure) violation;

or in the alternative to subsections (A) and (B) above,

(C) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in Section 8-612 a hearing before the governing body or its designated representative on the matter; and;

(c) Provided, however, that the governing body or its designee named herein shall grant one or more extensions to the time periods stated in subsections (b)(2)(B) and (b)(2)(C), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under Section 8-610 and/or abatement of the condition by the city according to Section 8-611 with the costs assessed against the property under Section 8-614.

(K.S.A. 12-1617e; Code 2014)

8-610. Penalty.

The public officer may file a complaint in the municipal court against any person found to be in violation of Section 8-608, provided however, that such person shall first have been sent a notice as provided in Section 8-609 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-609. Upon such complaint in the municipal court, any person found to be in violation of Section 8-608 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist.

(Code 2014)

8-611. Abatement.

In addition to, or as an alternative to prosecution as provided in Section 8-610, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to Section 8-609 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-609, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-614.

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

(a) Personal service upon the person in violation;

(b) Certified mail, return receipt requested; or

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

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

(Code 2014)

8-612. Hearing.

If a hearing is requested within the 10 day period as provided in Section 8-609 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in Section 8-611.

(Code 2014)

8-613. Appeals.

Any person affected by any determination of the governing body under Sections 8-611 or 8-612 may appeal such determination in the manner provided by K.S.A. 60-2101.

(Code 2014)

8-614. Costs assessed.

If the city abates or removes the nuisance pursuant to section 8-611, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(Code 2014)

8-615. Construction.

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

(Code 2014)