

**ORDINANCE NO. 334**

**AN ORDINANCE DECLARING THE LEGISLATIVE INTENT OF THE CITY OF STILWELL, OKLAHOMA, PERTAINING TO HEALTH AND SANITATION; ESTABLISHING THE PROCEDURE FOR ABATEMENT OF ACCUMULATED WEEDS AND TRASH, NUISANCES, DILAPIDATED BUILDINGS AND ABANDONED PROPERTY; PROVIDING FOR ASSESSMENT AND PENALTY THEREFOR AS PROVIDED BY THE LAWS OF THIS STATE.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF STILWELL, OKLAHOMA.**

**HEALTH AND SANITATION**

**CHAPTER 1  
WEEDS AND TRASH**



**SECTION 101. DEFINITIONS.**

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

1. "Administrative officer" means the mayor or other person so designated by the mayor;
2. "Cleaning: means the removal of trash from property;
3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;
4. "Trash" means any refuse, litter, ashes,, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind of form which is uncared for, discarded or abandoned; and
5. "Weed" includes but 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 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.

#### **SECTION 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 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 103, 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.

#### **SECTION 103. DUTY OF OWNER TO MAINTAIN PRIVATE PROPERTY**

No person owning, leasing occupying, or having charge of any property or premises shall maintain or keep any refuse, rubbish, trash, or similar material except dirt thereon; or shall 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.

#### **SECTION 104. REPORTS OF ACCUMULATION OF GRASS, WEEDS OR TRASH**

The code enforcement officer or 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 city code enforcement officer if, as a result of the accumulation of growth, the premises appear to be:

1. Detrimental to the health, benefit and welfare of the public and the community;
2. A hazard to traffic;
3. A fire hazard to property; or
4. Any two (2) or more of these conditions.

#### **SECTION 105. RECEIPT OF REPORT, HEARING AND NOTICE**

A. Upon receiving the report provided for in Section 104 of this code, or upon receipt of equivalent information from any reliable source, the city code enforcement officer shall place the matter upon the agenda for hearing and consideration at an appropriate date which will permit the giving of the notices prescribed by state law. At such hearing the mayor or the city code enforcement officer shall consider whether the premises, by reason of the conditions specified, are detrimental to the health, benefit and welfare of the public and the community, or a hazard to traffic, or a fire hazard to property, or any two (2) or more of such conditions.

B. At least ten (10) days prior to the hearing, the city code enforcement officer shall give written notice of the hearing by posting upon the premises and by forwarding a copy thereof by certified mail with return receipt requested to the owner of the property at the address shown by the current year's tax rolls in the office of the treasurer of the county in which the property is located. If the return receipt shows that the property owner cannot be located, notice shall be given by publication in a newspaper of general circulation one time not less than ten (10) days prior to the date of the hearing.

C. At least ten (10) days from the date of receipt of the notice the owner and upon the date specified in the notice, the mayor or city code enforcement officer shall hear the matter and shall receive information thereon, including anything which may be presented by the owner of the premises, personally or by agent or attorney. If the mayor or the city code enforcement officer determines that any of the conditions specified in Section 104 of this code exist upon the premises, he may order the property to be cleaned of trash, and/or weeds to be cut, removed or destroyed unless within ten (10) days from the date of receipt of the notice the owner either:

1. Cuts, removes or destroys the trash or weeds in accordance with the notice;
2. Gives written consent authorizing the city to abate the trash or weeds, thereby waiving his right to a hearing; or
3. Appeals to the city council from the order of the mayor or the city code

enforcement officer.

D. Such appeal to the city council from the order of the mayor or city code enforcement officer shall be taken by filing written notice with the city clerk within ten (10) days after the administrative order is rendered. The filing or written notice of appeal with the municipal clerk shall operate to stay the enforcement of the order of the city code enforcement officer appealed from. As soon thereafter as possible, and upon not less than ten (10) days notice to the property owner, the city council of the city shall consider the matter de novo.

#### **SECTION 106. WORK DONE BY EMPLOYEES OR CONTRACT**

E. The work ordered to be performed under Section 105 of this code may be done by the employees of this city under supervision of the mayor, or it may be let by contract to the lowest best bidder, after appropriate notice, in the manner for letting other contracts be public bid.

1. Work may be performed 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 to entry on the property for the removal or 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-treasurer 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;

3. After the property has been cleaned, the mayor or the code enforcement 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-treasurer shall forward by mail to the property owner specified in this section a statement of the actual cost and demanding payment;

4. If payment is not made within thirty (30) days from the date of the mailing of the statement, the city clerk-treasurer 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 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;

5. 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, of any, the city clerk-treasurer shall forward to the county treasurer a notice of such payment and directing discharge of the lien or part thereof; and

6. The provisions of this section shall not apply to any property zoned for agricultural purposes.

## **CHAPTER 2 NUISANCES**

### **SECTION 201. 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.

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 of this Section is a private nuisance.

### **SECTION 202. PERSONS RESPONSIBLE:**

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

### **SECTION 203. TIME DOES NOT LEGALIZE:**

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

### **SECTION 204. REMEDIES AGAINST PUBLIC NUISANCES:**

A. The remedies against a public nuisance are:

1. Prosecution on complaint before the Municipal Court;
2. Prosecution on information or indictment before another appropriate court;
3. Civil action; or
4. Abatement:
  - a. By person injured as provided in section 12 of title 50 of the Oklahoma Statutes; or

b. By the City in accordance with law or ordinance.

**SECTION 205. REMEDIES AGAINST PRIVATE NUISANCES:**

A. The remedies against a private nuisance are:

1. Civil action;

2. Abatement:

a. By person injured as provided in sections 14 and 15 of title 50 of the Oklahoma Statutes; or

b. By the city in accordance with law or ordinance.

**SECTION 206. CITY HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCES:**

As provided in section 16 of title 50 of the Oklahoma Statutes, the city has the 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. The city has the power summarily to abate any such nuisance upon order of the court.

**SECTION 207. CERTAIN PUBLIC NUISANCES IN THE CITY DEFINED:**

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

1. The sale, or offering for sale, of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;

2. The sale, offering for sale or furnishing of intoxicating liquor in violation of the state law or ordinances of the city; or keeping of a place where intoxicating liquor is sold, offered for sale, or furnished in violation of the state law or ordinances of the city;

3. The exposure, display, sale, or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;

4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;

5. The keeping of a place where prostitution, illicit sexual intercourse, or other immoral acts are practiced;

6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;

7. The conduct or holding of public dances in violation of the ordinances of the city; or the keeping of a place where such dances are held;

8. The public exposure of a person having a contagious disease;

9. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises;
10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
11. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance;
12. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;
13. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned, or situated as to endanger the public safety;
14. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
15. Any pit, hole, or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
16. Any fire or explosion hazard which endangers the public safety;
17. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
18. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle license plate as required by law for vehicles used on the public highways, when stored or kept at any location within the limits of the city;
19. 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;
20. The keeping of any dog kennels within this city for the breeding and raising of dogs that shall become offensive or annoying to the public by reason of the barking and noise made by the animals therein contained;
21. Any vault, cesspool or sink used to receive human excrement, slop, garbage, refuse or other filthy substance;
22. Any pond, slop, trash, refuse, cobs, manure, decayed or decaying vegetable matter, left, kept or maintained in such condition as to endanger the public health;
23. The keeping of any hog pen within the limits of this city;
24. Every privy or water closet which shall be in an overflowing, leaking or filthy condition, or in a condition dangerous, injurious or annoying to the comfort, health and welfare of any resident of this city;

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

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

27. 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.

B. 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.

#### **SECTION 208. SUMMARY ABATEMENT OF NUISANCES:**

A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require the mayor or other appropriate officer or agency of the city government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B. The building inspector, city code enforcement officer, chief of police, or their designees shall have the authority to abate any "nuisance" as defined by this chapter in accordance with this chapter.

#### **SECTION 209. ABATEMENT BY SUIT IN DISTRICT COURT:**

A. 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.

B. Penalty: Any violation of any provision contained in this chapter is an offense against the City and upon conviction of any such offense the violator shall be punished by a fine up to the maximum amount allowed under the municipal ordinances for the City of Stilwell, Oklahoma, plus court costs.

#### **SECTION 210. 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 211. HEALTH NUISANCES; ABATEMENT:**

A. Pursuant to authority granted by section 1-1011 of title 63 of the Oklahoma Statutes, the building inspector or city code enforcement officer shall have authority to order the owner 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 authorized agent thereof, by the building inspector or the city code enforcement officer, or a copy thereof may be left at the last usual place of abode of the owner or agent, if known and within the state. If the premises is unoccupied and the residence of the owner 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 city code enforcement officer or building inspector 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 collected in any manner in which any other debt due the city may be collected.

#### **SECTION 212. DRAINAGE DITCH NUISANCES; NOTICE; ABATEMENT:**

A. Any culvert, driveway, pipe or other obstacle upon or in the dedicated streets, alleys or ways of the city which impedes the flow of water through drainage ditches now constructed or which might hereafter be constructed by the city for the purpose of proper drainage of water falling from any rainfalls, which might reasonably be anticipated, shall be and is hereby declared to be public nuisances endangering and interfering with travel upon and the repair and maintenance of city streets and annoying, injuring and endangering the comfort, repose, health and safety of the citizens of the city.

B. All public nuisances existing contrary to the provisions of this section not abated by the owners or occupants of adjoining premises or their agents within ten (10) days after they shall be given notice as provided herein, shall be abated by the street commissioner or other officer or employee of the city, designated by motion or resolution of the city council and acting under the direction of the city council by digging up, breaking, if necessary or not reasonably avoidable, and removing such culvert, driveway, pipe or other obstacle and opening up such drainage ditch, and leaving the same open.

C. The notice herein mentioned shall be in writing directing the owner or occupant of premises adjoining such nuisance to abate the same by removing such obstacle impeding drainage, and shall be given by mailing to the owner or occupant of such adjoining premises at his or their last known post office address, or to both, if their names and post office addresses can be ascertained with reasonable diligence, by registered or certified mail or by delivery of such notice to such owner or occupant personally by any officer, employee or agent of the city or by posting such notice at some conspicuous place upon such premises if the name or mailing address of the owner or occupant of the premises cannot be ascertained with reasonable diligence.

#### **SECTION 213. PROCEDURE CUMULATIVE:**

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

## **CHAPTER 3 ENFORCEMENT AND PENALTY**

### **SECTION 301. ENFORCEMENT OF HEALTH ORDINANCES:**

Anywhere in this Part where the word or words "Health Officer" are used it shall be construed to mean the Director of the County Health Department or his duly designated representative. It is the intent and purpose of the Mayor and City Council to delegate the enforcement of the health ordinances of this City as set out in this Section and any such decisions rendered under this Section shall be subject to review by the governing board upon an appeal from an offender.

### **SECTION 302. OBSTRUCTING HEALTH OFFICER:**

It is unlawful for any person to wilfully obstruct or interfere with any Health Officer or physician charged with the enforcement of the health laws of this City.

### **SECTION 303. QUARANTINE; VIOLATIONS:**

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

### **SECTION 304. PENALTY:**

Any violation of any provision contained in this chapter is an offense against the City and upon conviction of any such offense the violator shall be punished by a fine up to the maximum amount allowed under the municipal ordinances for the City of Stilwell, Oklahoma, plus court costs.

## **CHAPTER 4 DILAPIDATED BUILDINGS**

### **SECTION 401. LEGISLATIVE INTENT:**

It is hereby declared the legislative intent of the council is to provide that the mayor or the city code enforcement officer shall be the initial hearing officer for all code compliance cases concerning the tearing down and removal of dilapidated buildings.

### **SECTION 402. REPORTING:**

In the performance of the city code enforcement officer's duties and/or any officer or employee of the city who discovers in the performance of his duties dilapidated buildings, as defined in section 412 of this chapter, upon any premises within the limits of the city by reason of which such premises appear to be:

- A. Detrimental to the health, safety, or welfare of the general public and the community; or
- B. The property creates a fire hazard which is dangerous to other property; and

C. The property would be benefitted by the removal of such conditions;

they shall prepare a report of such condition and in the case of officers and employees deliver such report to the city code enforcement officer.

**SECTION 403. RECEIPT OF REPORT, HEARING AND NOTICE:**

Upon preparing or receiving the report prescribed by section 402 of this chapter, the city code enforcement officer shall place upon the agenda for hearing and consideration at an appropriate time and date of meeting thereof, such as will permit giving the notices prescribed by state law. At such hearing the mayor or the city code enforcement officer shall consider the question of whether such premises, by reason of the conditions specified, are detrimental to the health, safety and welfare of the public and community, or the property creates a fire hazard which is dangerous to other property, or any two (2) or more of such results in combination and that the property would be benefitted by the removal of such conditions.

**SECTION 404. NOTICE TO OWNER AND MORTGAGE HOLDER:**

Upon preparation or receiving of a report as provided in section 402 of this chapter, the city code enforcement officer shall:

A. Make contact, if possible, in person, by telephone or by letter, with the owner and mortgage holder so as to agree on an abatement plan.

B. If the owner and/or mortgage holder refuses to agree on an abatement plan within fifteen (15) days of contact or letter issuance, or fails to comply with an agreed abatement plan, then the city code enforcement officer shall give notice by mail at the address shown by the current year's tax rolls in the county treasurer's office for the owner and the address shown in the county clerk's records for the mortgage holder ordering the property owner to tear down the dilapidated building and fixing reasonable dates for the commencement and completion of the work on the property and the notice shall further state that unless such work is begun within fifteen (15) 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. Said notice shall also be posted on the property to be affected.

C. At the time of mailing of the notice to the property owner, the city code enforcement officer 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 mailer.

D. If the property owner cannot be located within fifteen (15) days from the date of mailing by the city, notice may be given by posting a copy of the notice on the property or by publication in a legal newspaper of general circulation in the city, maintaining an office in the city.

**SECTION 405. CONSENT BY OWNER:**

The owner of the property may give written consent to the city authorizing the removal of the dilapidated building. By giving written consent, the owner waives the owner's right to a hearing by the mayor or city code enforcement officer and appeal to the city council.

**SECTION 406. INITIAL HEARING:**

Upon the date specified in the notice the mayor or city code enforcement officer shall hear the matter and receive information thereon, including anything which may be presented by the owner or mortgage holder of the premises, personally or by agent or attorney. If the mayor or city code enforcement officer determines that the condition specified in section 412 of this chapter exists upon such premises, said officer shall order the dilapidated building to be torn down and removed.

**SECTION 407. APPEAL BY PROPERTY OWNER:**

The property owner and/or mortgage holder shall have a right to appeal to the city council from any order of the mayor or city code enforcement officer. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the order is rendered.

**SECTION 408. WORK TO BE DONE BY CITY FORCES OR CONTRACT:**

After the hearing and appeal time has expired or the city council has entered its order, the work ordered to be performed under section 406 or 407 of this chapter may be done by the employees of this city, or it may be let by contract to the lowest and best bidder, after appropriate notice, in the manner for letting other contracts by public bid.

**SECTION 409. STATEMENT OF COST TO BE SENT:**

Immediately following the tearing down and removal of the dilapidated building on 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 tearing down and removal costs. The city clerk shall also forward by mail to the property owner and mortgage holder a statement of the actual cost and demanding payment, and obtain proof of mailing as provided in subsection 404 C of this chapter. If payment is not made within six (6) months 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.

**SECTION 410. COST TO BE DETERMINED:**

The mayor or the city code enforcement officer shall determine the actual cost of such tearing down and removal of the dilapidated building and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing.

**SECTION 411. SERVICE OF NOTICE:**

The service of all notices prescribed by this chapter shall be evidenced as provided in sections 404 and 409 of this chapter or by personal service evidenced by the return of the officer making such service certified in his official capacity, and all evidence of service shall be filed in the office of the city clerk.

**SECTION 412. DEFINITIONS:**

As used in this chapter:

**DILAPIDATED BUILDING:** A. A structure which through neglect or injury lacks necessary repairs

or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public.

B. A structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public.

C. A structure which is determined by the municipal governing body or administrative office of the municipal governing body to be an unsecured building, as defined by section 22-112.1, title 11 of the Oklahoma Statutes, more than three (3) times within any twelve (12) month period.

D. A structure which has been boarded and secured, as defined by section 22-112.1, title 11 of the Oklahoma Statutes, for more than thirty six (36) consecutive months.

E. A structure declared by the municipal governing body to constitute a public nuisance.

OWNER: The owner of record as shown by the most current tax rolls of the county treasurer.

**SECTION 413. AGRICULTURAL PROPERTY:**

The provisions of this chapter shall not apply to any property zoned for agricultural property.

**SECTION 414. NUISANCE ABATEMENT:**

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

**CHAPTER 5  
ABANDONED PROPERTY**

**SECTION 501. DEFINITIONS:**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**ABANDONED PROPERTY:** 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:** Real property not owned or used by a governmental body in the city.

**PUBLIC PROPERTY:** Real property owned or used by any governmental body in the city, and includes building or portions thereof under governmental use, parks, streets, sidewalks, rights of way, easements and vacant or undeveloped land owned or leased by any governmental body.

**SECTION 502. ENFORCEMENT:**

The building inspector or the city code enforcement officer shall enforce this chapter. Reference herein to the building inspector includes reference to the city code enforcement officer.

**SECTION 503. ABANDONED PROPERTY AND RELATED ACTS PROHIBITED:**

A. No person shall:

1. 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;
2. Obstruct the building inspector in the discharge of his duties under this chapter;
3. Remove any notice affixed to abandoned property under this chapter without the building inspector's consent; or
4. Allow any abandoned property to remain on any private property which they own.

B. The building inspector or the city code enforcement officer shall enforce this chapter.

**SECTION 504. NOTICE OF ABANDONED PROPERTY:**

A. Whenever the building inspector finds abandoned property which is located on private property and 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 shall 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 named) appears to be responsible for placing or leaving of the abandoned property on the private property (which 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 (15) 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 (15) 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 (15) 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 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.

B. Whenever the building inspector finds abandoned property which is located on private property and 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 shall be mailed by certified mail

to the owner per the county assessor's office of the real property upon which the abandoned property located. A removal notice shall also be placed on or near the abandoned property as required by section 505 of this chapter and the building inspector shall proceed as required under this chapter.

C. If any person required by this section to sign a notice of abandoned property wilfully 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 this section.

D. The building inspector or the city code enforcement officer shall enforce this chapter.

**SECTION 505. REMOVAL NOTICE:**

Whenever the building inspector or city code enforcement officer finds abandoned property which is located on private property, and regardless of whether a notice of abandoned property is served pursuant to subsection 504 A or B of this chapter, the building inspector or city code enforcement officer shall cause a notice to be placed on the abandoned property. If the building inspector or city code enforcement officer 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.

**SECTION 506. PENALTY:**

A. Enforcement Of This Chapter: The building inspector or city code enforcement officer or their designees shall enforce this chapter and shall have the authority to issue citations to any person, firm, or corporation, which violates, in any manner, this chapter.

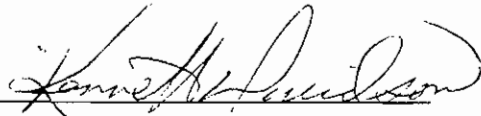
B. Penalty For Violating This Chapter: Any violation of any provision contained in this chapter is an offense against the City and upon conviction of any such offense the violator shall be punished by a fine up to the maximum amount allowed under the municipal ordinances for the City of Stilwell, Oklahoma, plus court costs.

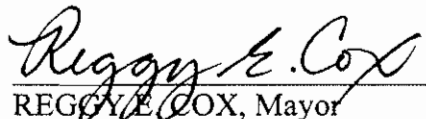
WHEREAS, an immediate necessity exists; therefore, for the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED by the Council this 5 day of June 2006.

APPROVED by the Mayor this 5 day of June 2006.

ATTEST:

  
Kenneth Davidson Clerk Treasurer

  
REGGIE COX, Mayor

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