

ORDINANCE NO. 3203

AN ORDINANCE REVISING CHAPTER 13 OF THE GUTHRIE CODE OF ORDINANCES REGULATING NUISANCES WITHIN THE CITY LIMITS OF THE CITY OF GUTHRIE, OKLAHOMA; SETTING FORTH REGULATIONS FOR GENERAL PROVISIONS; ACCUMULATION OF MATERIALS AND TRASH; WEEDS AND NOXIOUS PLANTS; ABANDONED, WRECKED, ETC., VEHICLES; MAINTENANCE OF RESIDENTIAL AND COMMERCIAL PREMISES; UNOCCUPIED AND DILAPIDATED STRUCTURES; GRAFITTI; AND COLLECTION OF CITY'S COST.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GUTHRIE, OKLAHOMA;

Chapter 13 of the Guthrie City Code is hereby revised to read as follows:

ARTICLE 1: GENERAL PROVISIONS

§ 13-1. NUISANCES DEFINED.

(A) It is unlawful for any person, owner, lessee or other to create or maintain a nuisance within the city or to permit a nuisance to remain on premises under his or her control within the city.

(B) A nuisance is unlawfully doing an act, omitting to perform a duty or 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; and/or

(4) In any way renders other persons insecure in life or in the use of property.

(C) 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.

(D) Every nuisance not included in division (C) above is a private nuisance.

§ 13-2. CERTAIN NUISANCES - GENERAL.

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

(2) The continued making of loud or unusual noises which annoy persons of ordinary sensibilities or the keeping of an animal which makes the noises;

(3) The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;

(4) 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 the street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinances;

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

(6) Any fire or explosion hazard which endangers the public safety;

(7) Any occupation or activity which endangers the public peace, health, morals, safety or welfare;

(8) 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;

(B) The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinance defining public or private nuisances either in more general or more specific terms.

§ 13-3. RESPONSIBLE PERSONS.

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

§ 13-4. TIME.

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

§ 13-5. POWER OF CITY.

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

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

§ 13-6. REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance include but are not limited to:

(A) Reporting the offense to the City's Code Enforcement Office who will investigate and order the appropriate remedy;

(B) Prosecution on complaint before the Municipal Court;

- (C) Prosecution on information or indictment before another appropriate court;
- (D) Civil action; and
- (E) Abatement:
 - (1) By person injured, as provided in 50 O.S. § 12; and/or
 - (2) By the city in accordance with law or ordinance.

§ 13-7. REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

- (A) Civil action; and
- (B) Abatement:
 - (1) By person injured as provided in 50 O.S. §§ 14 and 15; and
 - (2) By the city in accordance with law or ordinance.

§ 13-8. SUMMARY ABATEMENT.

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

(B) (1) The Chief of the Fire Department, the Chief of Police, the City Attorney, or the Building Inspector or any other officer subordinate to the City Manager, may submit to the City Manager, a statement as to the existence of a nuisance as defined by the ordinances of the city or law, and a request or recommendation that it be abated.

(2) The City Manager, any Council member or any resident or residents of the city may submit a statement and request or recommendation to the City Council.

(C) (1) The Council shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the Council shall have power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance or to have it abated, the Council shall give notice of a hearing on the proposed abatement to the owner of any property concerned and to any other person alleged or deemed responsible for or to be causing the nuisance, and an adequate opportunity to be heard, if the notice and opportunity for a hearing can be given.

(2) The notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer if their names and addresses are known; but, if the names or addresses are not known, and the peace, health, safety, morals or welfare of the person or persons

or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the city.

(D) If the Council finds that a nuisance does in fact exist, it shall direct the owner and/or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay. If the peace, health, safety, morals or welfare would be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the Council shall direct the City Manager to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by 50 O.S. § 16. The City Clerk shall send a statement of the cost of the summary abatement to the owner and/or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, the cost shall constitute a debt to the city collectible as other debts of the city may be collected.

§ 13-9. ABATEMENT BY SUIT.

In cases where it is deemed impractical summarily to abate a nuisance as provided for in this chapter, the city may bring suit in the District Court of the county where the nuisance is located, as provided in 50 O.S. § 17, and it is hereby made the duty of the City Council, by the adoption of a resolution, to direct the bringing of suit in the proper court for the abating of the nuisance.

§ 13-10. VIOLATIONS.

Any owner or person otherwise in possession or control who violates any provision of this chapter by doing any act prohibited or declared to be unlawful thereby, or declared to be a nuisance, an offense or misdemeanor thereby, or who fails to do any act required by any provision, or who fails to do any act when the provision declares the failure to be unlawful or to be an offense or misdemeanor, or who violates any legal order or regulation made pursuant to this chapter, or who maintains any nuisance as defined in this chapter, is guilty of an offense, and upon conviction thereof, shall be punished as provided in this code. Each day upon which a violation continues shall be deemed a separate offense.

§ 13-11. SAVINGS CLAUSE.

If any sentence, section, article or any part of this chapter shall be deemed unconstitutional or void, such shall not affect the remaining parts of this chapter.

ARTICLE 2: ACCUMULATION OF MATERIAL; TRASH

§ 13-20. DEFINITIONS.

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

(1) *Occupant* means the person(s) in actual or constructive possession of real property.

(2) *Owner* means the owner of record of real property as shown by the most current tax rolls of the county treasurer.

(3) *Trash* means any refuse, litter, ashes, debris, paper, salvage, combustible materials, rubbish, offal or waste, lumber or other building materials, any nonfunctional equipment or tools or furniture, or matter of any kind or form which is uncared for, discarded, or abandoned.

§ 13-21. EXCEPTIONS.

The following shall not be deemed accumulation of debris or trash as defined above:

(1) Lawn furniture or picnic and playground equipment in use or items customarily found in use on the premises;

(2) Materials used during construction, building, remodeling or improvement of structures on premises with a current building permit;

(3) Items placed at the side of the street for bulk waste pick-up no more than five days prior to the scheduled date of pick-up by the City's contracted waste collection company.

§ 13-22. NUISANCE DECLARED.

Trash which accumulates or exists upon any lot, tract or parcel of land, or along the unpaved streets, unpaved alleys or public easements adjacent to such lot, tract or parcel of land, is hereby declared to constitute a nuisance.

§ 13-23. REMOVAL OF TRASH REQUIRED.

It shall be unlawful and an offense for any owner or occupant of any lot, tract or parcel of land to allow trash to accumulate or exist upon such premises, or along the unpaved streets, unpaved alleys or public easements adjacent to such premises, and it shall be the duty of such owner or occupant to remove any and all trash on such premises.

§ 13-24. NOTICE AND ORDER TO REMOVE TRASH.

(A) Whenever the City shall determine that a nuisance exists, notice shall be given to the owner of the property in person, by mail at the address shown by the current year's tax rolls in the county treasurer's office, or by posting a copy of the notice on the property, or by publication as defined in 11 O.S. § 1-102 one time not less than ten days prior to any hearing or action by the City. The notice shall order the property owner to clean the property of trash, and said notice shall further state that unless such work is performed within ten days of the date of the notice the work shall be done by the City and the full cost charged to the property owner. Notice may also be given by posting or placarding the property or by publication, as defined in 11 O.S. § 1-102.

(B) If the City anticipates summary abatement of the nuisance in accordance with the provisions of Subsection (A) of this section, the notice as defined by 11 O.S. § 22-111, shall state:

(1) that any accumulations of trash on the owner's property occurring within six months from and after the date of this notice may be summarily abated by the municipal governing body;

(2) that the costs of such abatement shall be assessed against the owner; and

(3) that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner.

§ 13-25. CONSENT TO CITY ABATEMENT OF NUISANCE OR HEARING RE TRASH REMOVAL.

(A) The owner may give written consent authorizing the City to abate the nuisance under Section 13-22 hereof. Such consent shall waive his right to a hearing under the provisions of this section.

(B) At any time within ten days from the date of the notice and order provided for in this article, the owner may request, in writing to the City Manager, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The City Manager shall conduct such hearing as soon as may be practicable but not earlier than five days after receipt of the owner's request for such hearing, and not later than 15 days after such receipt.

(C) At such hearing, the owner shall have the right to be represented by counsel; to present testimony, other evidence and arguments; and to cross examine witnesses. All testimony shall be taken under oath. If the City Manager, after such hearing, shall determine that the trash accumulated or existing upon the property in question constitutes a nuisance detrimental to health or constitutes a fire or traffic hazard or blighting effect on the neighborhood and shall determine that the person or persons requesting such hearing are owners of the property upon which such nuisance is located, the City Manager shall file in writing his findings in fact, and his order that such nuisance be abated within ten days and shall cause such findings and order to be served upon such owner at the conclusion of the hearing.

§ 13-26. APPEALS FROM ORDERS OF CITY MANAGER; HEARING.

An appeal from a final order of the City Manager made pursuant to the provisions of this article may be had by any person aggrieved thereby by filing with the City Clerk, within ten days from the date of the City Manager's final order, a written notice of appeal. The City Clerk shall set the matter for a hearing before the City Council and shall notify the appellant by registered mail of the time and date when the matter will be heard. Upon the filing of the notice of appeal, the City Manager shall transmit to the City Clerk all records and orders pertaining to the case. The City Council, after hearing the matter in a summary manner, may sustain, reverse, or modify the order of the City Manager.

§ 13-27. ABATEMENT BY CITY--GENERALLY.

(A) In the event that no hearing shall have been requested as provided for in this article or the City Manager or City Council, after such hearing, shall have ordered such nuisance to be abated as aforesaid and such nuisance shall not have been abated within the respective period specified, then the City may cause such nuisance to be abated forthwith by removing same, in as many instances as may be necessary for continued abatement of the nuisance, and may cause a complaint to be filed against such owner in the Municipal Court for violation of provisions of this article, or both.

(B) To effect abatement, the City may cause the nuisance to be abated by employees for the City or, in the alternative, may prepare appropriate specifications, advertise for bids and award a contract for such abatement to the lowest and best bidder. The cost of abating any such nuisance, in

each and every instance where abated, shall be borne by the property owner and shall be assessed as hereinafter provided.

(C) If the City causes property within the municipal limits to be cleaned of trash, any subsequent accumulations of trash on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further notice to the property owner. At the time of each such summary abatement the City Manager or his/her designee shall notify the property owner of the abatement and the costs thereof.

§ 13-28. COLLECTION OF CITY'S COSTS.

(A) When the owner of the property upon which the nuisance is located has failed or refused to abate said nuisance the City shall cause said nuisance to be abated and the actual and necessary costs required to be expended by the City together with such administrative expense for mailing of notices, etc., said administrative expenses not to exceed the amount established in the Fee Schedule, and the total of said costs, shall be certified to the office of the City Clerk, who shall be responsible for billing all of said costs to the property owner.

(B) The City Clerk or his/her designee shall forward by mail to the property owner at the address specified in Section 13-24 of this article a statement setting forth the total costs for removal of trash and demanding payment.

(C) If payment is not made within 30 days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located and such costs shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the City.

(D) Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer.

ARTICLE 3: WEEDS AND NOXIOUS PLANTS

§ 13-30. CERTAIN NUISANCES DEFINED – WEEDS, NOXIOUS PLANTS AND THICKETS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Owner* means the owner of record as shown by the current year's tax rolls in the county treasurer's office and/or any person, firm, or corporation having a legal or equitable interest in the property, including an officer, guardian, executor, administrator, mortgagee in possession, managing or leasing agent of such person, firm, or corporation.

(2) *Weeds* means all vegetation at any state of maturity which:

(a) exceeds 8 inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery, by their density or location, constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;

- (b) regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;
- (c) harbors rodents or vermin;
- (d) gives off noxious odors;
- (e) constitutes a fire or traffic hazard; or
- (f) is dead or diseased.

"Weeds" does not include tended crops on land zoned for agricultural use which are planted more than 150 feet from a parcel zoned for other than agricultural use.

(3) *Noxious plants* means poison ivy, poison oak and poison sumac, at any height or stage of maturity.

(4) *Thicket* means a dense or tangled growth of small trees, bushes, brush or undergrowth.

§ 13-31. NUISANCE DECLARED.

(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) Weeds, noxious plants, or thickets which are allowed to stand at any season of the year upon any lot, tract or parcel of land, or along the sidewalk, street, or unpaved alley adjacent to such lot, tract or parcel of land, are hereby declared to constitute a nuisance; provided that this article shall not apply to land zoned or used for agricultural use which is more than 150 feet distant from any occupied commercial or residential subdivision lot, tract or parcel of land.

(2) 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;

(3) Carcasses, accumulations of manure, refuse or other things, which are, or are likely to be, breeding places for flies, mosquitoes, vermin or disease germs and the premises on which such exist;

§ 13-32. REMOVAL REQUIRED.

It shall be unlawful for any owner or person otherwise in possession or control of any lot, tract or parcel of land, except as hereinbefore provided, to allow weeds, noxious plants, or thickets to grow or stand upon such premises, or along the sidewalk, curb, street, or alley adjacent to such premises, and it shall be the duty of such owner to cut, remove or destroy any and all such weeds, noxious plants or thickets on such premises.

§ 13-33. NOTICE AND ORDER TO CUT, REMOVE OR DESTROY.

(A) Whenever the City shall determine that a nuisance exists, notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the City holds a hearing or takes action. The notice shall order the property owner to cut or mow the vegetation on the property, and said notice shall further state that unless such work is performed within ten days of the date of the notice the work shall be done by the City and the full cost charged to the property owner. At the time of mailing of notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. Notice may also be given by posting or placarding the property or by publication, as defined in 11 O.S. § 1-102.

(B) If the City anticipates summary abatement of the nuisance in accordance with the provisions of Section 13-31, the notice as defined by 11 O.S. § 22-111, shall state:

(1) that any accumulations of weeds, noxious plants or thickets, or any combination thereof, on the owner's property occurring within six months from and after the date of this notice may be summarily abated by the municipal governing body;

(2) that the costs of such abatement shall be assessed against the owner; and

(3) that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner.

§ 13-34. CONSENT TO CITY ABATEMENT OR HEARING RE CLEARING OF WEEDS, NOXIOUS PLANTS OR THICKETS.

(A) The owner may give written consent authorizing the City to abate the nuisance under Section 13-36 hereof. Such consent shall waive his right to a hearing under the provisions of this section.

(B) At any time within ten days from the date of the notice and order provided for in this article, the owner may request, in writing to the City Manager, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The City Manager shall conduct such hearing as soon as may be practicable but not earlier than five days after receipt of the owner's request for such hearing, and not later than 15 days after such receipt.

(C) At such hearing, the owner shall have the right to be represented by counsel, to present testimony or evidence and arguments, and to cross examine witnesses. All testimony shall be taken under oath. If the City Manager, after such hearing, shall determine that weeds, noxious plants, or thickets constitute a nuisance detrimental to health or a fire or traffic hazard on such property, and shall determine that the person or persons requesting such hearing are owners of the property upon which such nuisance is located, the City Manager shall file in writing his findings of fact, and his order that such nuisance be abated within ten days, and shall cause such findings and order to be served upon such owner at the conclusion of the hearing.

§ 13-35. APPEALS FROM ORDERS OF CITY MANAGER; HEARING.

An appeal from a final order of the City Manager made pursuant to the provisions of this article may be had by any person aggrieved thereby by filing with the City Clerk, within ten days from the date of the City Manager's final order, a written notice of appeal. The City Clerk shall set

the matter for a hearing before the City Council and shall notify the appellant by registered mail of the time and date when the matter will be heard. Upon the filing of the notice of appeal, the City Manager shall transmit to the City Clerk all records and orders pertaining to the case. The City Council, after hearing the matter in a summary manner, may sustain, reverse, or modify the order of the City Manager.

§ 13-36. ABATEMENT BY CITY--GENERALLY.

(A) In the event that no hearing shall have been requested as provided for in this article or the City Manager or City Council, after such hearing, shall have ordered such nuisance to be abated and such nuisance shall not have been abated within the respective period specified, then the City Manager may cause such nuisance to be abated forthwith by removing same, in as many instances as may be necessary for continued abatement of the nuisance, and may cause a complaint to be filed against such owner in the Municipal Court for violation of provisions of this article, or both.

(B) To effect abatement, the City may cause the nuisance to be abated by employees for the City or, in the alternative, may prepare appropriate specifications, advertise for bids and award a contract for such abatement to the lowest and best bidder. The cost of abating any such nuisance, in each and every instance where abated, shall be borne by the property owner and shall be assessed as hereinafter provided.

(C) If the City causes property within the municipal limits to be cleared of weeds, noxious plants or thickets, any subsequent accumulations of the same on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further notice to the property owner. At the time of each such summary abatement the City Manager or his/her designee shall notify the property owner of the abatement and the costs thereof.

§ 13-37. COLLECTION OF CITY'S COSTS.

(A) When the owner of the property upon which the nuisance is located has failed or refused to abate said nuisance the City shall cause said nuisance to be abated and the actual and necessary cost required to be expended by the City together with such administrative expense for mailing of notices, etc., said administrative expenses not to exceed the amount established in the Fee Schedule, and the total of said costs shall be certified to the office of the City Clerk, who shall be responsible for billing all of said costs to the property owner.

(B) The City Clerk shall forward by mail to the property owner at the address specified in Section 13-33(A) of this article a statement setting forth the total costs for clearing weeds, noxious plants or thickets, and demanding payment.

(C) If payment is not made within 30 days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located and such costs shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the City.

(D) Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer.

§ 13-38. APPLICABILITY.

The provisions of this article shall not apply to any property zoned and used for agricultural purposes. However, a municipal government body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section, but only if such weeds or trash pose a hazard to traffic and are located in, or within ten yards of, the public right-of-way at intersections.

ARTICLE 4: ABANDONED, WRECKED, ETC., VEHICLES

§ 13-40. CERTAIN NUISANCES DEFINED – ABANDONED, WRECKED, ETC., VEHICLES.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Abandoned vehicle* means any vehicle stored, parked or kept and not in actual use as means of transportation or having a valid registration tag.

(2) *Disabled vehicle* means any vehicle with a current tag and current insurance that is temporarily disabled because of a mechanical malfunction.

(3) *Junk vehicle* means any vehicle, as defined herein, which is wrecked, dismantled, partially dismantled, inoperative, deteriorated, decayed, lacks necessary repairs or maintenance, bearing no State license plate or bearing a registration tag that is more than three months out of date, or discarded.

(4) *Owner* means any person, firm, or corporation having a legal or equitable interest in the property, including an officer, guardian, executor, administrator, mortgagee in possession, managing or leasing agent of such person, firm, or corporation.

(5) *Private property* means any real property which is not public property.

(6) *Property* means any real property within the city which is not a street or highway.

(7) *Public property* means any street, roadway, sidewalk, alley way, parking or any other property dedicated to the public use and over which the Federal, State or municipal government or any political subdivision thereof exercises ownership, control or dominion.

(8) *Vehicle* means a device in, upon, or by which any person or property is or may be transported or drawn upon a highway; the term shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, boats, trailers, railroad cars, campers and camper trailers.

§ 13-41. PROHIBITED; NUISANCE DECLARED.

(A) It shall be unlawful and an offense for any person, firm, partnership or corporation to store, park, leave or permit the parking, storing or leaving of any vehicle of any kind which is in an abandoned or junk condition whether attended or not, upon any public or private property within the corporate limits of the city for a period of time in excess of five consecutive calendar days. The presence of an abandoned or junked vehicle or parts thereof on private or public property is hereby

declared a public nuisance which may be abated as such in accordance with the provisions of this article.

(B) The provisions of Subsection (A) shall not apply to the following:

(1) any vehicle enclosed within a building on private property with doors that can be closed;

(2) any legal vehicle that is temporarily disabled and that the owner/operator has a City permit allowing vehicle repairs within an area not zoned for that use;

(3) a maximum of 12 vehicles in a commercial zone so screened behind a privacy fence that they cannot be seen by a person standing at ground level adjacent to the property providing no public health or safety hazards exist.

§ 13-42. NOTICE TO REMOVE.

(A) The City Manager, or designee, shall give notice of removal to the owner of the private property where a nuisance as defined by this article is located. At least ten days notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the City takes action. It shall constitute sufficient notice, when at the time of mailing of the notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. Notice may also be given by posting or placarding the property upon which the vehicle is located or by publication, as defined in 11 O.S. § 1-102.

(B) The notice shall order the property owner to abate the nuisance and shall further state that unless such abatement is performed within ten days of the date of the notice, the nuisance may be abated by the City.

§ 13-43. RESPONSIBILITY FOR REMOVAL.

(A) Upon proper notice and opportunity to be heard, the owner of the private property on which the abandoned or junked vehicle is located, shall be responsible for its removal. In the event of removal and disposition by the City or its designee, the owner of the private property where the vehicle is located shall be liable for the expenses incurred.

(B) The City Manager or his or her designee is hereby authorized to remove or have removed any vehicle left at any place within the city which has been determined to be in violation of this section or abandoned, stolen or unclaimed. The vehicle shall be impounded until lawfully claimed or disposed of in accordance with applicable ordinances.

(C) The owner of any vehicle so removed may regain possession thereof by making application to the City of Guthrie within 30 days after its removal, verifying ownership and current registration. The owner shall reimburse the City for all towing and storage costs which shall have accrued to such vehicle prior to regaining possession. If the vehicle is not reclaimed within 30 days, it may be sold without further notice.

§ 13-44. CONSENT TO CITY ABATEMENT OR HEARING RE ABANDONED, WRECKED, ETC., VEHICLES.

(A) The owner may give written consent authorizing the City to abate the nuisance under Section 13-46 hereof. Such consent shall waive his right to a hearing under the provisions of this section.

(B) At any time within ten days from the date of the notice and order provided for in this article, the owner may request, in writing to the City Manager, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The City Manager shall conduct such hearing as soon as may be practicable but not earlier than five days after receipt of the owner's request for such hearing, and not later than 15 days after such receipt.

(C) At such hearing, the owner shall have the right to be represented by counsel, to present testimony or evidence and arguments, and to cross examine witnesses. All testimony shall be taken under oath. If the City Manager, after such hearing, shall determine that the inoperative or junked vehicle constitutes a growing blight or a substantial detriment to health and safety of the residents of our community, and shall determine that the person or persons requesting such hearing are owners of the property upon which such nuisance is located, the City Manager shall file in writing his findings of fact, and his order that such nuisance be abated within ten days, and shall cause such findings and order to be served upon such owner at the conclusion of the hearing.

§ 13-45. APPEALS FROM ORDERS OF CITY MANAGER; HEARING.

An appeal from a final order of the City Manager made pursuant to the provisions of this article may be had by any person aggrieved thereby by filing with the City Clerk, within ten days from the date of the City Manager's final order, a written notice of appeal. The City Clerk shall set the matter for a hearing before the City Council and shall notify the appellant by registered mail of the time and date when the matter will be heard. Upon the filing of the notice of appeal, the City Manager shall transmit to the City Clerk all records and orders pertaining to the case. The City Council, after hearing the matter in a summary manner, may sustain, reverse, or modify the order of the City Manager.

§ 13-46. ABATEMENT BY CITY - GENERALLY.

(A) In the event that no hearing shall have been requested as provided for in this article or the City Manager or City Council, after such hearing, shall have ordered such nuisance to be abated and such nuisance shall not have been abated within the period specified, then the City shall have the right to take possession of the inoperative or junked vehicle and remove it from the premises and may cause a complaint to be filed against such owner in the Municipal Court for violation of provisions of this article, or both.

(B) To effect abatement, the City may cause the nuisance to be abated by employees for the City or, in the alternative, may prepare appropriate specifications, advertise for bids and award a contract for such abatement to the lowest and best bidder. The cost of abating any such nuisance, in each and every instance where abated, shall be borne by the property owner and shall be assessed as hereinafter provided. It shall be unlawful for any person to interfere, hinder, or to refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this article.

(C) If the City causes the removal of abandoned, wrecked, etc., vehicles, any subsequent accumulations of the same on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further notice to the property owner. At the time of each such summary abatement the City Manager or his/her designee shall notify the property owner of the abatement and the costs thereof.

§ 13-47. COLLECTION OF CITY'S COSTS.

(A) When the owner of the property upon which the nuisance is located has failed or refused to abate said nuisance the City shall cause said nuisance to be abated and the actual and necessary cost required to be expended by the City together with such administrative expense for mailing of notices, etc., said administrative expenses not to exceed the amount established in the Fee Schedule, and the total of said costs shall be certified to the office of the City Clerk, who shall be responsible for billing all of said costs to the property owner.

(B) The City Clerk shall forward by mail to the property owner at the address specified in Section 13-42 of this article a statement setting forth the total costs for removing junked vehicles, and demanding payment.

(C) Upon the failure of the owner or occupant of property from which abandoned vehicles have been removed by the City to pay within 30 days the unrecovered expense incurred by the City in such removal, the amount may be added to the municipal utility bills of the private property from which removed and recovered in the same manner as such bills.

(D) If the private property is not served by municipal utilities or if collection efforts are not successful, the cost may be certified by the City Clerk to the county treasurer of the county in which the property is located who shall add the same to the ad valorem taxes assessed against the property, until paid, and such costs shall be collected in the same manner as ad valorem taxes assessed against the property, and when collected shall be paid to the City.

(E) Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer.

ARTICLE 5: MAINTENANCE OF RESIDENTIAL AND COMMERCIAL PREMISES

§ 13-50. CERTAIN NUISANCES DEFINED - MAINTENANCE OF RESIDENTIAL AND COMMERCIAL PREMISES.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Basement* means that portion of a building which is partly or completely below grade.

(2) *Blight* means a deteriorated condition.

(3) *Dwelling or Building* means any structure which contains one or more rooms arranged for and with facilities for human occupancy.

(4) *Exterior property* means the open space on the premises and on adjoining property under the control of the owner and/or occupant of such premises.

(5) *International Building Code* means the code which has been duly enacted by the City Council, copies of which are on file at City Hall.

(6) *Owner* means the owner or Agent of record of real property as shown by the most current tax rolls of the county treasurer.

(7) *Premises* means a lot, plot, tract or parcel of land including the buildings, courtlage, and structures thereon.

(8) *Structure* means that which is built or constructed.

§ 13-51. ACCEPTABLE EXTERIOR STANDARDS FOR MAINTENANCE.

(A) Exterior Structures, Generally.

(1) The exterior of a structure shall be maintained in good repair, in sound condition and sanitary so as to pose neither a threat to the public health and safety nor a blighting affect on the surrounding neighborhood.

(2) The exterior components including but not limited to storefronts, cornices, signs, awnings, marquees, siding, windows, window frames, insect screens, doors and door frames of all structures shall be free of holes, breaks, or loose or rotting materials, and maintained weatherproof and properly surface-coated where required to prevent deterioration.

(3) Every basement, foundation, hatchway, and vent shall be maintained in sound condition and in good repair.

(4) Roofs and drainage: The roof and flashing shall be sound, tight and not have defects which admit rain.

(5) Overhang extensions: All standpipes, exhaust ducts, gutters and similar overhang extensions shall be maintained in good repair so as to be in a safe and sound condition. All exposed surfaces of metal or wood shall be protected from the elements and against decay by periodic application of weather-coating materials, such as paint or similar surface treatment, as needed.

(B) Accessory structures: The exterior of accessory structures including but not limited to detached garages, storage facilities, sheds, loading docks, boat docks, fences and walls, shall be maintained in sound condition and good repair.

(C) Grading and Drainage: All premises shall be graded and maintained to prevent the accumulation of stagnant water thereon, or within any structure located thereon, except for water detention or retention areas approved by the City.

(D) All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided in this article so as not to cause a blighting problem or adversely affect the public health or safety.

§ 13-52. RESPONSIBILITY FOR MAINTENANCE.

Each owner and/or occupant of the premises shall maintain the structures and exterior property in compliance with the requirements of this article. A person shall not occupy or permit another person to occupy or use premises which do not comply with the requirements of this article.

§ 13-53. NUISANCE DECLARED.

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

(A) Any building or structure which upon examination by the City is deemed dangerous to the public health or safety because of damage, decay or other condition, is hereby declared to constitute a nuisance.

(B) Any building or structure which upon examination by the City is deemed as not meeting the minimum conditions of the acceptable exterior standards for maintenance.

(C) All structures, premises and land which upon examination by the City is determined to cause a blighting problem on the surrounding neighborhood or area.

§ 13-54. NOTICE TO CORRECT.

(A) The City Manager, or designee, shall give notice of correction to the owner of the private property where a nuisance as defined by this article is located. At least ten days notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the City takes action. It shall constitute sufficient notice, when at the time of mailing of the notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. Notice may also be given by posting or placarding the property or by publication, as defined in 11 O.S. § 1-102.

(B) The notice shall order the property owner to abate the nuisance and shall further state that unless such abatement is performed within the specified time, the nuisance may be abated by the City.

§ 13-55. RESPONSIBILITY FOR CORRECTION.

(A) Upon proper notice and opportunity to be heard, the owner of the private property which is deemed to be a nuisance according to this article, shall be responsible for its correction. In the event of correction by the City or its designee, the owner of the private property where the nuisances exists shall be liable for the expenses incurred.

(B) The City Manager or his or her designee is hereby authorized to correct or have corrected any nuisance at any place within the city which has been determined to be in violation of this section.

(C) The owner shall reimburse the City for all costs incurred for correcting the nuisance.

§ 13-56. CONSENT TO CITY ABATEMENT OR HEARING RE PROPERTY MAINTENANCE.

(A) The owner may give written consent authorizing the City to abate the nuisance under Section 13-58 hereof. Such consent shall waive his right to a hearing under the provisions of this section.

(B) At any time within ten days from the date of the notice and order provided for in this article, the owner may request, in writing to the City Manager, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The City Manager shall conduct such hearing as soon as may be practicable but not earlier than five days after receipt of the owner's request for such hearing, and not later than 15 days after such receipt.

(C) At such hearing, the owner shall have the right to be represented by counsel, to present testimony or evidence and arguments, and to cross examine witnesses. All testimony shall be taken under oath. If the City Manager, after such hearing, shall determine that the property constitutes a growing blight or a substantial detriment to health and safety of the residents of our community, and shall determine that the person or persons requesting such hearing are owners and/or occupants of the property which constitutes the nuisance, the City Manager shall file in writing his findings of fact, and his order that such nuisance be abated within a specified time period, and shall cause such findings and order to be served upon such owner at the conclusion of the hearing.

§ 13-57. APPEALS FROM ORDERS OF CITY MANAGER; HEARING.

An appeal from a final order of the City Manager made pursuant to the provisions of this article may be had by any person aggrieved thereby by filing with the City Clerk, within ten days from the date of the City Manager's final order, a written notice of appeal. The City Clerk shall set the matter for a hearing before the City Council and shall notify the appellant by registered mail of the time and date when the matter will be heard. Upon the filing of the notice of appeal, the City Manager shall transmit to the City Clerk all records and orders pertaining to the case. The City Council, after hearing the matter in a summary manner, may sustain, reverse, or modify the order of the City Manager.

§ 13-58. ABATEMENT BY CITY.

(A) In the event that no hearing shall have been requested as provided for in this article or the City Manager or City Council, after such hearing, shall have ordered such nuisance to be abated and such nuisance shall not have been abated within the period specified, then the City shall have the right to abate the nuisance and may cause a complaint to be filed against such owner in the Municipal Court for violation of provisions of this article, or both.

(B) To effect abatement, the City may cause the nuisance to be abated by employees for the City or, in the alternative, may prepare appropriate specifications, advertise for bids and award a contract for such abatement to the lowest and best bidder. The cost of abating any such nuisance, in each and every instance where abated, shall be borne by the property owner and shall be assessed as hereinafter provided. It shall be unlawful for any person to interfere, hinder, or to refuse to allow such person or persons to enter upon private property for the purpose of correcting a nuisance under the provisions of this article.

§ 13-59. COLLECTION OF CITY'S COSTS.

(A) When the owner of the property upon which the nuisance is located has failed or refused to abate said nuisance the City shall cause said nuisance to be abated and the actual and necessary cost required to be expended by the City together with such administrative expense for mailing of notices, etc., said administrative expenses not to exceed the amount established in the Fee Schedule, and the total of said costs shall be certified to the office of the City Clerk, who shall be responsible for billing all of said costs to the property owner.

(B) The City Clerk shall forward by mail to the property owner at the address specified in Section 13-54 of this article a statement setting forth the total costs for abating the nuisance.

(C) If payment is not made within 30 days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located and such costs shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the City.

(D) Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer.

ARTICLE 6: UNOCCUPIED, DILAPIDATED AND DANGEROUS STRUCTURES

§ 13-60. CERTAIN NUISANCES DEFINED - UNOCCUPIED, DILAPIDATED AND DANGEROUS STRUCTURES.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Basement* means that portion of a building which is partly or completely below grade.

(2) *Dangerous Structures* means any unoccupied dwelling or other building which shall be found to have any or all of the following defects:

(a) The building or dwelling is structurally unsafe, unstable, unsanitary, vermin infested, and/or a fire hazard;

(b) The building or dwelling lacks unblocked exit facilities, provisions for proper occupancy of any future occupants to include adequate heat, light, ventilation, water and sewer; or

(c) The building or dwelling lacks adequate maintenance because of dilapidation, obsolescence and/or extended abandonment.

(3) *Dilapidated* means a structure declared by the City to be unfit for human habitation or utility.

(4) *Dwelling or Building* means any structure which contains one or more rooms arranged for and with facilities for human occupancy.

(5) *Exterior property* means the open space on the premises and on adjoining property under the control of the owner and/or occupant of such premises.

(6) *International Building Code* means the code which has been duly enacted by the City Council, copies of which are on file at City Hall.

(7) *International Fire Code* means the code which has been duly enacted by the City Council, copies of which are on file at City Hall.

(8) *Owner* means the owner or Agent of record of real property as shown by the most current tax rolls of the county treasurer.

(9) *Premises* means a lot, plot, tract or parcel of land including the buildings and structures thereon.

(10) *Structure* means that which is built or constructed.

(11) *Unoccupied* means any structure not in actual use according to its zoning and/or constructed or intended purpose.

(12) *Vacant* means any structure temporarily not in use.

§ 13-61. ACCEPTABLE EXTERIOR STANDARDS FOR UNOCCUPIED STRUCTURES.

(A) All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided in this article so as not to cause a blighting problem or adversely affect the public health or safety.

(B) Unoccupied structures shall be maintained in accordance with Section 13-51 with the following exception: for purposes of public safety, windows, doors, hatchways, etc. may be temporarily boarded for a time not to exceed 180 days. After the specified time, the structure shall be declared a public nuisance.

§ 13-62. AUTHORIZATION OF ENTRY.

The City Manager or his or her designee shall enforce this article and in so doing may enter any unoccupied dwelling or other building or premises during all reasonable hours, to make inspections and examinations thereof in order to perform the duties imposed on him or her by this article, the International Building Code, as adopted by the City Council, and the laws of the state.

§ 13-63. RESPONSIBILITY FOR MAINTENANCE.

Each owner of the premises shall maintain the structures and exterior property in compliance with the requirements of this article.

§ 13-64. NUISANCE DECLARED.

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

(A) Any building or structure which upon examination by the City is deemed dangerous to the public health or safety because of damage, decay or other condition, is hereby declared to constitute a nuisance; or

(B) All structures, premises and land which upon examination by the City is determined to be dilapidated and/or to cause a blighting problem on the surrounding neighborhood or area.

§ 13-65. NOTICE TO CORRECT; RESPONSIBILITY FOR CORRECTION.

(A) The City Manager, or designee, shall give notice of correction to the owner of the private property where a nuisance as defined by this article is located. At least ten days notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the City takes action. It shall constitute sufficient notice, when at the time of mailing of the notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. Notice may also be given by posting or placarding the property or by publication, as defined in 11 O.S. § 1-102.

(B) The notice shall include a description of the real estate sufficient for identification, defects present and a description of the nuisance cited herein and order the property owner to abate the nuisance and shall further state that unless such abatement is performed within the specified time, the nuisance may be abated by the City.

(C) Defects Corrected:

(1) If the defects defined in the written notice are corrected by the owner or agent of the dwelling or building within 30 days after mailing of the notice, the City Manager or designee shall remove the nuisance placard, and compliance with this article shall be deemed complete and proper.

(2) However, if the defects or damage or cost of reconstruction or restoration is in excess of 50% of the value of the building or dwellings, exclusive of foundations, the building or dwellings, if reconstructed or restored, shall be made to conform with respect to materials and type of construction, to the requirements of the National Building Code as adopted. No change of use or occupancy shall be compelled by reason of the reconstruction or restoration.

(D) Upon proper notice and opportunity to be heard, the owner of the private property which is deemed to be a nuisance according to this article, shall be responsible for its correction. In the event of correction by the City or its designee, the owner of the private property where the nuisances exists shall be liable for the expenses incurred.

(E) The City Manager or his or her designee is hereby authorized to correct or have corrected any nuisance at any place within the city which has been determined to be in violation of this section.

(F) The owner shall reimburse the City for all costs incurred for correcting the nuisance.

§ 13-66. PLACARDING FOR DILAPIDATED STRUCTURES.

(A) Any notice issued for a dilapidated structure shall also include a placard placed on the main entrance of the dwelling or building determined to be dilapidated. The placard shall read, "NOTICE: This building has been declared a public nuisance by the City of Guthrie. Human occupancy is hereby prohibited and unlawful."

(B) It shall be unlawful for any person to deface or remove the placard from any dwelling or other building which has been cited as a public nuisance, except as provided for herein.

§ 13-67. CONSENT TO CITY ABATEMENT OR HEARING RE UNOCCUPIED STRUCTURES.

(A) The owner may give written consent authorizing the City to abate the nuisance under Section 13-69 hereof. Such consent shall waive his right to a hearing under the provisions of this section.

(B) At any time within ten days from the date of the notice and order provided for in this article, the owner may request, in writing to the City Manager, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The City Manager shall conduct such hearing as soon as may be practicable but not earlier than five days after receipt of the owner's request for such hearing, and not later than 15 days after such receipt.

(C) At such hearing, the owner shall have the right to be represented by counsel, to present testimony or evidence and arguments, and to cross examine witnesses. All testimony shall be taken under oath. If the City Manager, after such hearing, shall determine that the property constitutes a growing blight or a substantial detriment to health and safety of the residents of our community, and shall determine that the person or persons requesting such hearing are owners of the property which constitutes the nuisance, the City Manager shall file in writing his findings of fact, and his order that such nuisance be abated within a specified time period, and shall cause such findings and order to be served upon such owner at the conclusion of the hearing.

§ 13-68. APPEALS FROM ORDERS OF CITY MANAGER; HEARING.

An appeal from a final order of the City Manager made pursuant to the provisions of this article may be had by any person aggrieved thereby by filing with the City Clerk, within ten days from the date of the City Manager's final order, a written notice of appeal. The City Clerk shall set the matter for a hearing before the City Council and shall notify the appellant by registered mail of the time and date when the matter will be heard. Upon the filing of the notice of appeal, the City Manager shall transmit to the City Clerk all records and orders pertaining to the case. The City Council, after hearing the matter in a summary manner, may sustain, reverse, or modify the order of the City Manager.

§ 13-69. ABATEMENT BY CITY.

(A) In the event that no hearing shall have been requested as provided for in this article or the City Manager or City Council, after such hearing, shall have ordered such nuisance to be abated and such nuisance shall not have been abated within the period specified, then the City shall have the right to abate the nuisance and may cause a complaint to be filed against such owner in the Municipal Court for violation of provisions of this article, or both.

(B) To effect abatement, the City may cause the nuisance to be abated by employees for the City or, in the alternative, may prepare appropriate specifications, advertise for bids and award a contract for such abatement to the lowest and best bidder. The cost of abating any such nuisance, in each and every instance where abated, shall be borne by the property owner and shall be assessed as hereinafter provided. It shall be unlawful for any person to interfere, hinder, or to refuse to allow such person or persons to enter upon private property for the purpose of correcting a nuisance under the provisions of this article.

§ 13-70 DEMOLITION OR REMOVAL.

(A) Only vacant or unoccupied dwellings or buildings shall be subject to demolition and removal under this article.

(B) Any owner or agent of the dwelling or building receiving notice of intent to abate nuisance or any other notice issued under the provisions of this article may demolish and remove same at his or her expense and the action shall be deemed compliance with this article.

§ 13-71. COLLECTION OF CITY'S COSTS.

(A) When the owner of the property upon which the nuisance is located has failed or refused to abate said nuisance the City shall cause said nuisance to be abated and the actual and necessary cost required to be expended by the City together with such administrative expense for mailing of notices, etc., said administrative expenses not to exceed the amount established in the Fee Schedule, and the total of said costs shall be certified to the office of the City Clerk, who shall be responsible for billing all of said costs to the property owner.

(B) The City Clerk shall forward by mail to the property owner at the address specified in Section 13-65 of this article a statement setting forth the total costs for abating the nuisance.

(C) If payment is not made within 30 days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located and such costs shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the City.

(D) Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer.

ARTICLE 7: GRAFFITI

§ 13-80. CERTAIN NUISANCES DEFINED – GRAFFITI

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Advertising* means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or occupant of the property, or an agent of such owner or occupant, for the purpose of promoting products or services or conveying information to the public.

(2) *Graffiti* means, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched, or etched on a rock, tree, wall, bridge, fence, gate, building, or other structure; provided, however that this definition shall not include advertising lawfully placed on property.

(3) *Removal, Remove, Removed* means the act of taking graffiti off or masking the presence of graffiti on a rock, tree, wall, bridge, fence, gate, building, or other structure.

§ 13-81. GRAFFITI PROHIBITED, NUISANCES DECLARED

In addition to other public nuisances declared by other sections of this code or law, graffiti on public or private property within the corporate city limits constitutes a public nuisance to the detriment of the City and its inhabitants and visitors.

§ 13-82. APPLICATION OF GRAFFITI PROHIBITED; OFFENSE; PENALTY.

(A) No person shall apply graffiti to public or private property within the City.

(B) Any person who applies graffiti to public or private property within the City shall be guilty of an offense. Each act of applying graffiti shall constitute a separate offense.

(C) Any person convicted of the offense of applying graffiti to public or private property within the City shall be punished by a fine and or up to 10 days in jail.

(D) The provisions of this section shall be enforced by the Guthrie Police Department.

§ 13-83. NOTICE TO CORRECT

(A) The City Manager, or designee, shall give notice of correction to the owner of the property where a nuisance as defined by this article is located. At least 10 days notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the City takes action. It shall constitute sufficient notice, when at the time of mailing of the notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which shall indicate the date of mailing and the name and address of the mailer. Notice may also be given by posting or placarding the property or by publication, as defined in 11 O.S. § 1-102.

(B) The notice shall order the property owner to abate the nuisance and shall further state that unless such abatement is performed within the specified time, the nuisance may be abated by the City.

§ 13-84. RESPONSIBILITY FOR CORRECTION

(A) Upon proper notice and opportunity to be heard, the owner of the private property which is deemed to be a nuisance according to this article, shall be responsible for its correction. In the event of correction by the City or its designee, the owner of the private property where the nuisances exist shall be liable for the expenses incurred.

(B) The City Manager or his or her designee is hereby authorized to correct or have corrected any nuisance at any place within the city which has been determined to be in violation of this section.

(C) The owner shall reimburse the City for all costs incurred for correcting the nuisance.

(D) If the consent of the property owner, tenant and/or occupant, if any, to remove graffiti from the property cannot be obtained, the City manager or his/ her designee may remove the graffiti without such consent pursuant to the procedures set forth in this section.

§ 13-85. CONSENT TO CITY ABATEMENT OR HEARING RE GRAFFITI

(A) The owner may give written consent authorizing the City to abate the nuisance under Section 13-87 hereof. Such consent shall waive his right to a hearing under the provisions of this section.

(B) At any time within ten days from the date of the notice and order provided for in this article, the owner may request, in writing to the City Manager, a hearing to be conducted for the purpose of contesting the determination that a nuisance exists upon his property. The City Manager shall conduct such a hearing as soon as may be practicable but not earlier than five days after receipt of the owner's request for such hearing, and not later than 15 days after such receipt.

(C) At such hearing, the owner shall have the right to be represented by counsel, to present testimony or evidence and arguments, and to cross examine witnesses. All testimony shall be taken under oath. If the City Manager, after such hearing, shall determine that the property constitutes a growing blight or a substantial detriment to health and safety of the residents of the community, and shall determine that the person or persons requesting such hearing are owners and/or occupants of the property which constitutes the nuisance, the City Manager shall file in writing his findings of fact, and his order that such nuisance be abated within a specified time period, and shall cause such findings and order to be served upon such owner at the conclusion of the hearing.

§ 13-86. APPEALS FROM ORDERS OF CITY MANAGER; HEARING

An appeal from a final order of the City Manager made pursuant to the provisions of this article may be had by any person aggrieved thereby by filing with the City Clerk, within ten days from the date of the City Manager's final order, a written notice of appeal. The City Clerk shall set the matter for a hearing before the City Council and shall notify the appellant by registered mail of the time and date when the matter will be heard. Upon the filing of the notice of appeal, the City Manager shall transmit to the City Clerk all records and orders pertaining to the case. The City Council, after hearing the matter in a summary manner, may sustain, reverse, or modify the order of the City Manager.

§ 13-87. ABATEMENT BY CITY

(A) In the event that no hearing shall have been requested as provided for in this article or the City Manager or City Council, after such hearing, shall have ordered such nuisance to be abated and such nuisance shall not have been abated within the period specified, then the City shall have the right to abate the nuisance and may cause a complaint to be filed against such owner in the Municipal Court for violation of provisions of this article, or both.

(B) To effect abatement, the City may cause the nuisance to be abated by employees of the City or, in the alternative, may prepare appropriate specifications, advertise for bids and award a contract for such abatement to the lowest and best bidder. The cost of abating any such nuisance, in each and every instance where abated, shall be borne by the property owner and shall be assessed as hereinafter provided. It shall be unlawful for any person to interfere, hinder, or to refuse to allow such person or persons to enter upon private property for the purpose of correcting a nuisance under the provisions of this article.

§ 13-88. COLLECTION OF CITY'S COSTS

(A) When the owner of the property upon which the nuisance is located has failed or refused to abate said nuisance the City shall cause said nuisance to be abated and the actual and necessary cost required to be expended by the City together with such administrative expense for mailing of notices, etc., said administrative expenses not to exceed the amount established in the Fee Schedule, and the total of said costs shall be certified to the office of the City Clerk, who shall be responsible for billing all of said costs to the property owner.

(B) The City Clerk shall forward by mail to the property owner at the address specified in Section 13-24 of this article a statement setting forth the total costs for abating the nuisance.

(C) If payment is not made within 30 days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located and such costs shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the City.

(D) Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer.

Adopted and approved by the City Council of the City of Guthrie the 7th day of July, 2009.

Chuck Burtcher, Mayor

ATTEST: Seal

Wanda Calvert, City Clerk

APPROVED AS TO SUBSTANCE
AND FORM:

Randel Shadid, City Attorney