

CHAPTER VII. HEALTH, SANITATION AND WELFARE

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ARTICLE 1. CITY HEALTH OFFICER

7-101. CITY HEALTH OFFICER. With the assent of the Johnson County Health Department, the Johnson County Health Officer shall serve as the City Health Officer for the City of Spring Hill, Kansas, to represent the City in health matters. (Ord. 1188)

7-102. HEALTH INSPECTIONS. The city health officer shall be diligent in inspecting all places and premises in the city for sources of filth, contagion, the existence of communicable diseases, nuisances, and other conditions inimical to public health and welfare. All complaints of any such places or conditions shall be referred to the city health officer for its action thereon and the city health officer may call upon the police officers of the city in those cases where the matter complained of is a violation of the ordinances of the city or laws of the State of Kansas. The city health officer may, condemn and order the destruction of such foods or provisions held for human consumption and may establish quarantine of persons or places as necessary to prevent the spread of contagious or infectious diseases.

7-103. MANURE, DUMPING, FILLING LOTS. It shall be unlawful for any person to dump any manure, or other refuse matter on any public or private grounds within the jurisdiction of the board of health of this city for other than fertilizing purposes without first securing permission from the board of health to do so.

7-104. DRUGS, MEDICINES; DISTRIBUTING SAMPLES. It shall be unlawful for any person to distribute samples of drugs or medicines of any kind by placing or leaving the same upon any streets, alleys or public grounds of this city, or upon the porch of any residence or building in the city, or upon any portion of the premises surrounding any such residence, or building.

ARTICLE 2. REFUSE, COLLECTION, DISPOSAL

7-201. DEFINITIONS. Refuse, for the purpose of this article, shall include garbage and trash, and shall be defined as follows:

- a. Garbage - Wastes from the preparation, cooking, and consumption of food; market refuses, waste from the handling, storage and sale of produce.
- b. Trash:
 - 1. Combustible - Paper, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding.
 - 2. Noncombustible - Metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral refuse.
 - 3. Ashes - Residue from fires used for cooking and for heating buildings.
 - 4. Street rubbish - Street sweepings, dirt, leaves, catch-basin dirt, contents of litter receptacles.

5. Dead animals.

Provided, that trash shall not include: Earth and wastes from building operations, solid wastes resulting from industrial processes and manufacturing operations, such as food processing wastes, boilerhouse cinders, lumber, scraps and shavings. Provided further that the Governing Body of the City may by ordinance limit or extend these definitions and may give interpretations to words or phrases.

(Ord. 1287)

7-202. COLLECTION BY PRIVATE CONTRACTOR; FEES; PROHIBITION AGAINST COLLECTION BY OTHER PERSONS.

- a) The Governing Body has determined that a system for the collection and disposal of garbage and trash within the corporate limits of the City of Spring Hill shall be by private contractor, and that the services charges therefor shall be established by negotiated contract between the Governing Body and the private contractor.
- b) No person, firm, partnership, association or corporation shall engage in the collecting, transporting, processing or disposing of refuse within the corporate limits unless said person has entered into a contract for such services with the City pursuant to Section 7-209.
- c) Any person, firms, partnership, association or corporation engaged in the business of collecting, transporting, processing, or disposing of refuse in violation of Section 7-202(b) shall terminate said service within sixty (60) days from the effective date of this Ordinance.

(Ord. 1343)

7-203. NO SERVICE CHARGE UNDER CERTAIN CONDITIONS. Parties having no garbage or trash shall not be required to pay any service charges. Provided that the Governing Body does hereby provide and prohibit the accumulation of garbage and trash other than as specified to the end that the City may be kept clean and sanitary, and may prohibit the owners of garbage and trash from transporting it along the streets or disposing of it in a manner causing a nuisance or in unsightly and unsanitary ways, within or without the City. (Ord. 1287)

7-204. CITY TO REGULATE AND LICENSE COLLECTORS. The Governing Body of the City which provides no refuse or solid waste collection and disposal service as herein specified or as authorized by K.S.A. Supp. 65-3410 may regulate and license garbage or trash collectors, or both, and limit the number of licenses and pass ordinances as authorized by Section 7-203 of this article and K.S.A. 65-3410. (Ord. 1287)

7-205. PAYMENT OF SERVICE CHARGE. Charges provided for in Section 7-202 of this article, shall be made at the same time, in the same manner and against the same person on each premises as the charges for water service offered and furnished by the City, and such charges shall be due and payable at the same time and place as charges for water services are due and payable. No water service shall be furnished to any premises within the limits of the City until provisions have been made thereon for municipal garbage and trash collection and disposal service. Charges for municipal garbage and trash collection and disposal service and for water service are hereby declared to be a part of one debt to the City insofar as the same affect any one customer, and the refusal or failure to pay any part of such debt for any monthly period of service in accordance with the rules and regulations established by the Governing Body of the City shall be sufficient cause for discontinuing garbage and trash collection and water service. The City shall receive a total of six percent (6%) of the gross amount collected by payments of the garbage and trash collection service charge so made. (Ord. 1287)

7.205.10. STANDARDS FOR WATER SERVICE OR REFUSE SERVICE TERMINATION.

- (a) The city may discontinue refuse service or water service for any of the following reasons:
 - (1) When the customer requests it;
 - (2) When a utility bill becomes delinquent and after proper notice;

- (3) When the customer defaults on a deferred payment plan agreement;
- (4) When a dangerous condition exists on the customer's premises;
- (5) When the customer misrepresents his or her identity for the purpose of obtaining utility service;
- (6) When city personnel or their agents perform routine or needed water and sewer line maintenance, replacement and inspections;
- (7) When the customer refuses to grant city personnel, or their agents access, during normal working hours, to install equipment upon the premises of the customer, for the purpose of inspection, meter reading, maintenance or replacement;
- (8) When the customer violates any provision of this chapter or any rule or regulation promulgated under this chapter, which violation adversely affects the safety of the customer or other persons, or the integrity of the City's water or sewer system;
- (9) When the customer causes or permits unauthorized interference or diversion or use of water service delivered on or about the customer's premises;
- (10) When the customer fails to pay for previous city utility service received at a separate location or residence;
- (11) When a check or other negotiable instrument previously applied to a customer utility account is returned to the city unpaid;

(b) The following shall not constitute sufficient cause for the City to discontinue service:

- (1) The failure of the customer to pay a bill which has been validly and timely disputed; provided however, that the customer pays that portion of the bill not in dispute.

(Ord. 2009-23)

7.205.20. WATER SERVICE AND REFUSE SERVICE TERMINATION PROCEDURES.

- (a) The provisions of this section shall govern all termination of water service or refuse service for nonpayment of charges and/or installments and surcharges.
- (b) If the City has not received complete payment of the amount(s) shown on the bill by the first business day after the fifteenth (15th) of the month, the City shall mail a service interruption notice by first class U.S. Mail, to the customer at the last known address of the customer as shown on the records of the City, or by personal service upon the customer by an employee of the City Public Works Department or by a City Law Enforcement Officer.
- (c) The service interruption notice shall contain the following:
 - (1) Name of the customer and address where the service is being provided;
 - (2) Account number;
 - (3) The amount to be paid; including delinquent charges and past due charges;
 - (4) The date of service interruption notice;
 - (5) The date of termination, which shall be at least seven (7) days from the date of the service interruption notice;
 - (6) Notice that unless the city receives complete payment of the amount shown prior to the date of termination, water or refuse service shall be terminated under Section 7.205.20.(d);
 - (7) Notice that, a customer, prior to the date of termination, may notify the city that he disputes the correctness of all or part of the amount shown, if all or part of the amount shown was not the subject of a previous dispute;
 - (8) Notice that a customer may qualify for payment plan arrangements; and
 - (9) Notice of the City's utility customer service center telephone number.
- (d) The City shall terminate water or refuse service to the customer if prior to the date of termination:
 - (1) The City has not received complete payment of the amount shown on the Service Interruption Notice; and

- (2) The customer has not requested and the City has not established for the customer a deferred payment plan; or
- (3) The customer has not notified the City that he disputes the correctness of all or part of the amount shown on the service interruption notice, or the utility bill.

(e) If the City receives complete payment of the amount due shown on the service interruption notice prior to the date of termination, said payment shall be considered a timely and complete payment for purposes of this ordinance.

(Ord. 2009-23)

7.205.30. LIMITATON OF TERMINATION.

(a) The utility shall terminate water service for nonpayment of utility charges and/or installments and surcharges only between the hours of 8:00 A. M and 5:00 P.M., Monday through Thursday. No water service termination shall be permitted on a legal holiday or on the day before a legal holiday. (Ord. 2009-23)

7.205.40. REINSTATEMENT OF WATER SERVICE. In the event of termination of water service in accordance with the provision of this ordinance, the utility shall reinstate water service to the customer within twelve (12) hours of the utility's receipt of complete payment and or all service interruption related charges. Such payment shall not be considered a timely payment for purposes of this chapter. (Ord. 2009-23)

7.205.50. CUSTOMER DISPUTE AND HEARING.

(a) At any time before the date of termination of utility service for nonpayment of the amount(s) shown on a utility bill, notice of rejection or notice of termination, a customer may dispute the correctness of all or part of the amount(s) shown in accordance with the provisions of this chapter. A customer shall not be entitled to dispute the correctness of all or part of the amount(s) if all or part of the amount(s) was (were) the subject of a previous dispute under Section 7.205.50.

(b) The procedure for customer disputes shall be as follows:

- (1) Before the date of termination, the customer shall notify the City, orally or in writing that he disputes all or part of the amount(s) shown on utility bill, a notice of rejection or a notice of termination, stating as completely as possible the basis for the dispute.
- (2) If the City determines that the presented dispute is untimely or that the customer previously disputed the correctness of all or part of the amount(s) shown, the city shall notify the customer that the presented dispute is untimely or invalid. The City shall then proceed as if the customer had not notified the utility of the present dispute.
- (3) If the City determines that the present dispute is not untimely or invalid under Section 7.205.50 the City, within five (5) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and an official of the City.
- (4) Based on the utility records, the customer's allegation and all other relevant material available to the official, the official shall resolve the dispute, attempting to do so in a manner satisfactory to both the City and the customer.
- (5) Within five (5) days of completion of the meeting, the official shall mail to the customer a letter of his decision relevant to the dispute.
- (6) If the decision is unsatisfactory to the customer, the customer within five (5) days of his receipt of the official's decision shall request in writing a formal hearing before a City hearing examiner.
- (7) The formal hearing before the examiner shall be held within ten (10) days of the City's receipt of the customer's written request.

- (8) At the hearing the City and the customer shall be entitled to present all evidence that is, in the hearing examiner's view, relevant and material to the dispute, and to examine and cross examine witnesses. A tape-recorded (or at the option of the City, a written) record of the hearing shall be maintained.
- (9) Based on the record established at the hearing, the examiner, within five (5) days of the conclusion of the hearing, shall issue his written decision formally resolving the dispute. His decision shall be final and binding on the City and customer.

(c) Utilization of these dispute proceedings shall not release a customer of his obligation to timely and completely pay all other undisputed utility charges and/or installments and surcharges, and the undisputed portion(s) of the amount(s) which is (are) the subject of the present dispute. Notwithstanding Section 7.205.50 (d), failure to timely and completely pay all such undisputed amounts shall subject the customer to termination of utility service in accordance with the provisions of this ordinance.

(d) Until the date of the hearing examiners' or the City official's decision, whichever is later, the City shall not terminate the utility service of the customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount(s). If it is determined that the customer must pay some or all of the disputed amount(s), the City shall promptly mail to, or personally serve upon the customer a notice of termination which shall contain the following:

- (1) The amount to be paid;
- (2) The date of the notice of termination;
- (3) The date of termination, which shall be at least seven (7) days after the date of the notice of termination ;
- (4) Notice that unless the City receives complete payment of the amount shown prior to the date of termination, the utility service shall be terminated under Section 7.205.20(d).
- (5) Notice that in lieu of payment of the amount shown, an eligible customer, prior to the date of termination, may request the establishment of a deferred payment plan.

(Ord. 2009-23)

7.205.60. HEARING EXAMINER. The city administrator shall appoint a hearing examiner to carry out the responsibilities established under the provisions of this chapter. (Ord. 2009-23)

7.205.70. DEFERRED PAYMENT PLAN.

- (a) Any customer, except those described in Section 7.205.70(b), who is unable to timely and completely pay a utility charge, may request, oral or in writing, that the utility establish for him a deferred payment plan to enable him to pay the utility charge and to avoid termination of utility service.
- (b) The following classes of customer are ineligible to request a deferred payment plan:
 - (1) A customer whose utility service has been terminated for nonpayment of utility charges and/or installments and surcharges within the past six (6) months of the customer's present request for a deferred payment plan;
 - (2) A customer who has failed to make a timely and complete payment of a utility charge and/or installment and surcharge within the past six (6) months of the customer's present request for a deferred payment plan; and
 - (3) A customer who is currently making installment and surcharge payments under a prior deferred payment plan.
- (c) The utility shall not establish a deferred payment plan based on a request by a customer that is not timely. A request is timely if it is received by the utility prior to the date of termination of utility

service.

- (d) Upon receipt of an untimely request or a request from an ineligible customer, the utility shall notify the customer of his ineligibility or of the untimeliness of his request. The utility shall then proceed as if the customer had not made the request.
- (e) Upon receipt of an eligible customer's timely request for establishment of a deferred payment plan, the utility shall discuss with the customer the exact payment requirements of the customer's deferred payment plan. An extended payment plan (beyond fourteen (14) days) shall become effective only upon the utility's receipt of the customer's written acceptance of the payment requirements.
- (f) Except as authorized by Section 7.205.70(g)., no extended deferred payment plan (beyond fourteen (14) days) shall be established that does not meet the following minimum payment requirements:
 - (1) An initial payment of at least twenty-five percent (25%) of the utility charge subject to the deferred payment plan, payable at the time of the customer's written acceptance of the payment requirements of his deferred payment plan; and
 - (2) A maximum of three (3) monthly installment payments of at least twenty-five percent (25%) of the utility charge subject to the deferred payment plan, with the first such installment due thirty (30) days after payment of the initial payment.
- (g) The City Administrator shall have the authority to approve different payment requirements than the minimum payment requirements that are set forth in Section 7.205.70.f.
- (h) When a payment by a customer is not sufficient to satisfy an installment and surcharge payable under the customer's deferred payment plan and a currently payable utility charge, the payment shall first be applied to the installment and surcharge and then to the currently payable utility charge.
- (i) In the event that the utility rejects a customer's request for the establishment of a deferred payment plan, for reasons other than the untimeliness of the request or the ineligibility of the customer, the utility shall mail to the customer a notice of rejection stating the following:
 - (1) The reason(s) that the customer's request was rejected;
 - (2) The date of the notice of rejection; and
 - (3) The date that complete payment of the utility charge is due at the utility, which shall be the payment date shown on the utility bill, or the date of termination shown on the notice of termination, or at least five (5) days after the date of the notice of rejection, whichever is latest.

(Ord. 2009-23)

7.205.80. REGULATIONS. The city administrator or his designee is authorized to establish, after due notice and opportunity of interested parties to be heard, all written regulations necessary to implement the provisions of this ordinance. (Ord. 2009-23)

7.205.90. COMPUTATION OF TIME. In computing any period of time prescribed by this ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is a Saturday, a Sunday or legal holiday, in which event the period runs until the next day which is not a Saturday, a Sunday or legal holiday. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. (Ord. 2009-23)

7.205.100. SEPARABILITY. The provisions of this ordinance are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or part of this ordinance or their application to other person or circumstance. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein and if such person or circumstance, to which the ordinance or part thereof is held inapplicable, and not specifically exempt therefrom. (Ord.2009-23)

7-206. PROVIDING FOR SANITARY LANDFILL DISPOSAL AREA. It shall be the responsibility of the private contractor to secure such disposal areas that may be available for such disposal and the City shall assume no responsibility or liability for the transportation to or the disposal within such sites, and/or to provide such sites. (Ord. 1287)

7-207. PROVIDING RECEPTACLE; HOURS RESTRICTING TIME FOR PLACEMENT OF TRASH CONTAINERS WITHIN PUBLIC RIGHT OF WAY.

- A) Each dwelling owner or tenant shall provide a suitable container not to exceed thirty-two gallons (32 gals.) with a sixty-five pound (65 lb.) limit for the disposal of such trash and such container shall be placed at the street or curb line of dwelling houses, or in the alley of usable and improved alleys of sufficient width to permit the use thereof with trash operating equipment, and such other places of commercial or industrial establishments as may be agreed upon by the private contractor and the owner, on a regular schedule.
- B) Containers, bags and bundles for residential curbside collection shall be placed at curbside by 7:00A.M. on the designated collection day.
- C) It is unlawful for any owner, tenant, commercial or industrial establishment to place or allow to remain in the public right-of-way any trash container, for a period not to exceed twenty-four hours preceding the scheduled day of collection. Trash containers shall be removed within twelve hours following collection of the trash materials.

(Ord. 2005-47)

7-208. COMBINING TRASH IN ONE CONTAINER. Combining of trash into one container by one or more tenants, or one or more commercial establishments, or the hauling of ones own trash and garbage, shall not exempt the individuals or commercial establishments from the regular monthly charge for such trash or disposal service. (Ord. 1287)

7-209. CONTRACT FOR PRIVATE CONTRACTOR. The Governing Body of the City shall enter into a written contract between the private contractor and the City, providing for the carrying out of the conditions and services as outlined in this article, and the contract shall be of such duration as may be determined by the Governing Body to be to the best interests of the City and shall contain a termination clause by either party of sixty (60) days written notice. (Ord. 98-11)

7-210. CHARGES: APPROVAL OF GOVERNING BODY. The private contractor shall file a statement of charges to be charged for the rendering of such services with the City Clerk, and that such charges are subject to the approval of the Governing Body of the City. Any citizen of the City complaining of improper charges or refusal to render service, for any reason, may lodge written complaint with the City Clerk of the City. (Ord.1287)

7-211. REFUSE ACCUMULATION. It is unlawful for any household or commercial establishment to accumulate refuse except in a closed container and it is unlawful to fail to dispose of the same so that refuse shall not be scattered about the City, or become a nuisance or constitute a menace to the public health or safety, or a fire hazard, or become unsightly or constitute a violation of any ordinance of the City. (Ord. 1287)

7-212. TRASH BURNING: OFFENSIVE FUMES. It is unlawful for any person, firm, or corporation to burn garbage, feathers, offal, rubber, automobiles, automobile parts or interiors, or any other material or substance which produces malodorous or offensive fumes. (Ord. 1287)

7-213. TRASH BURNING: INCINERATORS REQUIRED. It is unlawful for any person, firm, or corporation to burn combustible trash or street rubbish or any other material except grass, brush, and leaves unless the burning is confined within an incinerator so constructed as to prevent the escape of sparks or burning materials. (Ord. 1287)

7-214. OPEN FIRES. It shall be unlawful to burn leaves, brush, and grass within the City, provided however, that the burning of leaves, brush, and grass may be allowed between sunrise and sunset after permission to so burn is obtained from the Fire Chief. Such open fires or burning shall not be allowed within fifteen (15) feet of any building or structure or upon any avenue, street, alley, or gutter within the City that is sealed or paved by asphalt, concrete, oil, blocks, or bricks. Such permit to burn shall be further conditioned upon weather conditions and restrictions for safe practices imposed by the Fire Chief. (Ord. 1287)

7-215. HAULING REFUSE IN VEHICLES: COVER REQUIRED. It is unlawful for any person, firm, or corporation to haul garbage, trash, or loose waste materials of any kind over the streets or public ways of the City, except in a vehicle so closed and covered as to prevent the loss of or escape of any refuse during transit, or except in closed and covered containers which will prevent the loss of or escape of any refuse during transit. (Ord. 1287)

7-216. BACKYARDS: OCCUPANT'S DUTIES. The space in the rear of any business lot, house, or mercantile establishment, between the rear of the building and the alley line, shall be kept clean and clear of all garbage, trash, refuse, paper, bottles, cans, or other waste material. The occupant or occupants of the ground floor are hereby charged with the duty of keeping the space clean except such refuse or filth deposited by other occupants of the premises who must remove the same. (Ord. 1287)

7-217. ADJACENT ALLEYS: OCCUPANT'S DUTIES. The owner of the ground floor, or the occupant thereof, is hereby charged with the duty of keeping the alley in the rear of the premises, or adjacent thereto, clean and free from refuse. (Ord. 1287)

7-218. ANNUAL CLEAN UP WEEK. The Governing Body of the City of Spring Hill may provide annually a designated week wherein all trash, old furniture and refrigerators, etc., may be hauled on City trucks and/or by separate contract with a private contractor, and all limits as to amount of refuse shall be waived so long as the same is within weight limits as provided under the provisions of this article. (Ord. 1287)

7-219. PENALTY PROVISION. Violations of Article 2, Chapter VII are subject to the general penalty provisions contained in Section 1-1101 of this code. (Ord. 2005-47)

ARTICLE 2A. RESIDENTIAL CURBSIDE RECYCLING PROGRAM

7-201A. PURPOSE, FINDINGS AND INTENT.

- A. The purpose of the residential curbside recycling program is to reduce the solid waste entering our landfills by providing Spring Hill residents with a convenient means to recycle recyclable materials. The residential curbside recycling program is part of the City's overall efforts that will ultimately extend the life of the area's landfills and promote efficient use of our natural resources.
- B. K.S.A. 65-3410 authorizes cities to pass ordinances and adopt resolutions, regulations and standards for the storage, collection and transportation of solid wastes and do all other things necessary for a proper, effective solid waste management system.
- C. The governing body of the city finds that it is necessary, desirable and in the public interest to

have the maximum participation in the program in order to reduce the cost to each individual participant and to achieve the objectives hereinbefore set out and that maximum participation can best be achieved through all participants sharing in the cost of the residential curbside recycling program.

(Ord. 2005-45)

7-202A. DEFINITIONS. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the following meanings:

- A. "City" means the city of Spring Hill, Kansas.
- B. "Collection bin" means a recycling container utilized by the City's contractor in the performance of the terms and conditions of their contract with the City for the collection of recyclable materials.
- C. "Contractor" means the person or corporation holding a contract with the City to perform recycling services within the City.
- D. "Participant" means all residents of the City who receive individual solid waste collection service from a licensed waste hauler, excluding residents of home associations within the City where such associations have in existence on the effective date of the ordinance codified in this chapter, arrangements for recycling services for their members that are equal to or comparable to the curbside recycling program described in this article.
- E. "Recyclable materials" means newspaper; magazines; junk mail; office paper; phone books; aluminum and steel cans; plastic containers with a neck marked #1 PETE (Polyethylene Terephthalate) and #2 HDPE (High Density Polyethylene); corrugated cardboard, carrier stock and chipboard, and other materials mutually agreed to by the Contractor and the City. These materials are rendered recyclable by the action of participants who place such materials at the curbside for collection by the Contractor pursuant to the terms of a written agreement with the City.

(Ord. 2005-45)

7-203A. PARTICIPATION IN PROGRAM.

- A. Participants will be provided with a collection bin by the Contractor. All collection bins shall be the property of the Contractor.
- B. All recyclable materials shall be collected by the Contractor according to a schedule agreed upon by the City and the Contractor.
- C. Recyclable materials may be placed curbside in the collection bins for collection by the Contractor on their scheduled pickup date. It is unlawful for any participant to place or allow to remain in the public right-of-way any recyclable materials, or collection bins therefore, for a period not to exceed twenty-four hours preceding the scheduled day of collection. Collection bins shall be removed within twelve hours following collection of the recyclable materials.
- D. It is unlawful for any person to intentionally place, in any collection bin, anything other than the appropriate recyclable materials, and to place that collection bin at curbside for collection.
- E. It is unlawful for the owner or person in control of any dog or cat to allow that dog or cat to damage or open any collection bin or disturb the contents thereof after that collection bin and those recyclable materials have been properly placed curbside for collection.

(Ord. 2005-45)

7-204A. MANDATORY PROGRAM COSTS.

- A. All participants shall share in the costs of the residential curbside recycling program. The costs of the program shall be defined in the contract between the City and the Contractor. The City shall bill all participants for their share of the costs of the program in accordance with the contract between the City and the Contractor.
- B. It is unlawful for any person, under the terms and conditions specified in this chapter, to fail to pay an authorized bill for collection of recyclable materials properly presented to such person by the

City.
(Ord. 2005-45)

7-205A. UNAUTHORIZED COLLECTION OF RECYCLABLE MATERIALS.

- A. It is in violation of this chapter for any person not authorized by the City to collect or pick up or cause to be collected or picked up any residential recyclable materials from the City collection bins.
- B. Nothing in this section is intended to prevent any occupier of land from donating or selling recyclable material from its own refuse.
- C. It is unlawful for any participant, to place, locate, establish, maintain, erect, leave or otherwise make available to persons not authorized by the City any unattended recycling receptacle, collection bin or recyclable materials that are in public view in the City for the purpose of collecting discarded recyclable materials.

(Ord. 2005-45)

7-206A. PENALTY.

- A. Violations of this article are subject to the general penalty provisions contained in Section 1-1101 of this code. (Ord. 2005-45)

ARTICLE 3. ENVIRONMENTAL QUALITY

7-301. AUTHORITY. The city, under the authority of Kansas Statutes Annotated 12-1617(e), is hereby authorized to provide for and require the removal and abatement of any and all nuisances, garbage, solid waste, trash, inoperable vehicles on lots or parcels of ground within the city. (Ord. 95-05)

7-302. PURPOSE. The purpose of this chapter is to protect, preserve, upgrade and regulate the environmental quality of the city. This will be accomplished by prohibiting certain environmental conditions which may exist and are identified as a threat to the health, safety and welfare of the general public or to the aesthetic characteristics of the city and to provide for the administration and enforcement thereof. (Ord. 95-05)

7-303. DEFINITIONS. For the purposes of this chapter, the following definitions apply:

- a) "City" shall mean the City of Spring Hill, Kansas;
- b) "Code" means the Spring Hill Municipal Code;
- c) "Commercial or Industrial" means areas which are used or intended to be used primarily for other than residential or agricultural purposes;
- d) "Compost Pile" means a mixture of consisting of leaves, stems, grasses, dirt and other organic matter which shall be stored in an enclosure and used for garden soil conditioning purposes. Said enclosure shall be screened or placed in a manner which is not offensive to neighboring residents or the general public;
- e) "Garbage" means without limitation, any accumulation of animal, fruit or vegetable waste matter which normally is the by-product of handling, preparation, cooking, serving, delivering, storage or any other use of foodstuffs;
- f) "Immediate vehicle hazard" means any unattended vehicle which has been placed on jacks, blocks or a stand unless such vehicle is placed in a garage or other building;
- g) "Inoperable vehicle" means a vehicle or component parts thereof which cannot function properly or be used for its original purpose, including, without limitation, a condition of being junked, parted out, used for salvage or any part thereof, discarded or stored, use of any part for artful or decorative purposes. Also, included would be any vehicle which is not currently registered or licensed or parked in any manner which would be a violation of other city ordinances or incapable of moving under its own power or would be unlawful to operate upon any street, road or highway. A vehicle which is temporarily inoperative but is in the process of being repaired shall be repaired within thirty

(30) consecutive days or it shall be deemed an inoperable vehicle as defined by this section.

- h) "Nuisance" means, without limitation, any accumulation or collection of garbage, solid waste, trash, abandoned or inoperable vehicles or parts thereof, or any other material or item which is thrown, left, deposited or stored upon any public or private property, except that compost piles as defined by Section 7-303(d) shall not constitute a nuisance;

The above also includes any place, operation, materials or substance offensive in appearance or which emits or causes any nauseous odors. Any dilapidated fence, wall, building or other structure in disrepair, open pits, pools or ponds of water or fluids, trenches or wells and/or any other condition which is offensive to or a threat to the environmental quality, health, safety or welfare of the city as determined by any city public officer shall also constitute a nuisance;

- i) "Person" shall mean any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or any representative who has charge, care, control or responsibility for maintenance of any premises regardless of status as owner, renter, tenant or lessee, whether or not in possession;
- j) "Premises" means any lot, parcel or tract of land, including any structures, and/or excavations located thereon;
- k) "Public Officer" means any city representative charged by the city administrator with the administration and enforcement of this chapter;
- l) "Residential" means used or intended to be used primarily for human habitation.
- m) "Screening" means fencing or vegetation maintained for the purpose of concealing from view.
- n) "Solid Wastes" means any garbage or trash or other refuse, including such items as animal and agricultural wastes, discarded appliances, discarded furniture and miscellaneous household items, inoperable vehicles or parts thereof, industrial wastes, demolition and construction debris, scrap lumber, pieces of rock, concrete, or other junk or debris.
- o) "Trash" means combustible waste consisting of, but not limited to: papers, cartons, books, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings or tree branches and noncombustible waste consisting of, but not limited to: metal, tin cans, bottles, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.
- p) "Vehicle" means any automobile, van, truck, all terrain vehicle, motorcycle, moped, motorscooter, recreational vehicle, farm machinery, construction equipment, boat, boat trailer, airplane, bicycle, trailer, wagon, or other device mounted on wheels and designed to carry any cargo, operator or passenger and may be powered by an engine or pulled or pushed by any device or person.
- q) "Unimproved Premises" means any lot parcel or tract of land without any structures or any other type of improvement or development thereon;
- r) "Yard" means the area of the premises not occupied by a structure.

(Ord. 95-05)

7-304 UNLAWFUL ACTS. It is unlawful for any person to allow to exist on any residential, commercial or industrial premises, whether improved or unimproved, inoperable vehicle or an immediate vehicle hazard, nuisances, any accumulation of solid waste, trash or garbage, as defined in this chapter. Any inoperable vehicle, immediate vehicle hazard, nuisances, accumulation of solid waste, trash or garbage as defined in this chapter, in violation of this section shall be deemed a public nuisance constituting a menace to the general health, safety and welfare of the residents of the City.

Except that the provisions of this section shall not apply to:

- a) Any vehicle which is enclosed in a garage or other building; or
- b) The parking or storage of a temporarily disabled vehicle for a period of thirty (30) consecutive days or less; or
- c) To any person who is conducting a business enterprise concerned with the repair, sale or storage of vehicles which is in compliance with existing zoning regulations, or any person, who is in compliance with existing zoning regulations and who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public using the

streets and sidewalks and to prohibit ready access to such vehicles.
(Ord. 95-05)

7-305. RIGHT OF ENTRY. Any authorized officer or agent of the City, pursuant to this chapter, shall be allowed to enter onto any land within the city limits to investigate violations of this chapter or for the abatement of violations pursuant to this chapter. (Ord. 95-05)

7-306. RESPONSIBILITY TO ABATE. The property owner, representative, tenant or other such person with control, occupancy or possession of real property shall be responsible for the abatement of any unlawful acts defined by Section 7-304. (Ord. 95-05)

7-307. PUBLIC OFFICER; NOTICE TO ABATE. The city administrator shall designate a public officer to be charged with administration and enforcement of this chapter. The public officer shall authorize the investigation of violations of this chapter. If it is determined that a violation of this chapter is in existence, then the officer shall send a notice of abatement to the property owner, representative, tenant or other such responsible person. (Ord. 95-05)

7-308. NOTICE REQUIREMENTS. The notice of abatement shall state:

- a) A common and/or legal description of the property upon which the violation exists;
- b) That the property is in violation of the provisions of this chapter;
- c) A description of the nature of the violation that would reasonably allow the property owner or other responsible person, representative or tenant to determine the nature of the violation to allow for self-abatement;
- d) That the person in charge of the property shall have ten (10) days from the date of the mailing of the notice to either remove and abate the violation of this chapter or request a hearing before the city's designated representative on the matter.
- e) That upon written request received prior to the expiration of the notice period, the property owner, representative, tenant or other responsible person may request a hearing before a designated hearing officer of the city;
- f) That if the owner, occupant, or agent of the property fails to correct the violation or request a hearing within ten (10) days of the mailing of notice, the city or its authorized agent will remove and abate the violation of this chapter by reasonable means and assess the costs of removal, including reasonable administrative costs against such person. Notice of the total cost of such abatement shall be provided to the owner, occupant or agent by certified mail, return receipt requested, or personal service;
- g) That if the assessed costs of removal, including administrative costs, are not paid within thirty (30) days of the date when the assessment comes due, the costs will be added to the property tax as a special assessment;
- h) That if any special assessments levied by the city in accordance with this chapter remain unpaid for a period of one (1) year or more after their initial levy, the city may collect the amount due in the same manner as a personal debt of the property owner to the city by bringing an action in the Johnson County or Miami County District Courts. Such actions may be maintained, prosecuted and all proceedings taken, including any award of post-judgment interest, in accordance with K.S.A. 16-204, and amendments thereto, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be available to the city in the enforcement of the payment of such obligations. In such actions the city also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto, from and after the date a delinquency occurs in the payment of special assessments levied under this chapter. The city may pursue collection both by levying a special assessment and in the manner provided by this section, but only until the full cost and any applicable interest has been paid in full;
- i) Violation of any provisions of this article shall be deemed a misdemeanor and be punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed thirty (30) days, or both. Each day any violation of this chapter

constitutes shall constitute a separate offense punishable as a misdemeanor;

Prosecution of any offender under this section does not limit the city's right to abate any violation as defined under this chapter or to additionally recover any costs incident to the abatement process, including reasonable administrative costs;

j) That the public officer should be contacted if there are any questions regarding the notice.
(Ord. 95-05)

7-309. SERVICE OF NOTICE.

- a) The notice shall be personally served or sent by certified mail, return receipt requested, or if the property is unoccupied and the owner is a non-resident of the State of Kansas, then by mailing notice by certified mail to the last known address of the owner;
- b) Failure to sign for the certified return, receipt requested, mail notice from the city, or failure to pick up said notice from the post office within fifteen (15) days shall not be deemed a lack of notice under this chapter where delivery was attempted and a record of this attempt was provided as required by procedures for restricted mail.

(Ord. 95-05)

7-310. ABATEMENT OF IMMEDIATE VEHICLE HAZARD. When in the opinion of the public officer an immediate vehicle hazard as defined by 7-303(f) exists in such a condition as to require immediate action to protect the public, such officer may erect barricades or cause the vehicle to be taken down or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents or lienholders. The costs of any such action shall be assessed and paid in the manner as set out in Section 7-313.

7-311. ABATEMENT HEARING. If the recipient of the notice of abatement makes a written request for hearing within the notice period, then the city shall immediately schedule a hearing during a regular business day within ten (10) calendar days from the receipt of the written request. The hearing shall be conducted by a designated hearing officer appointed by the city administrator who shall not be a subordinate of the officer who issued the notice of abatement or conducted the investigation. The hearing officer shall receive evidence, review the investigation and prepare a written order. The order shall be sent by certified mail to all relevant parties within ten (10) days of the hearing, unless otherwise stated at the hearing, and prior to the city taking any action to abate the violation. The order shall describe the relevant facts relied upon, state the specific code provisions being relied upon should a violation be found, and state any such other stipulations, methods of abatement or orders as deemed necessary by the hearing officer. (Ord. 95-05)

7-312. ABATEMENT BY THE CITY. If the property owner, representative or tenant fails to request a hearing and fails to abate the violations within the notice period, then the city shall go onto the property to abate the violation in a reasonable manner. The city shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to abate the violations. The city may use its own employees or contract for services to abate violations of this chapter. (Ord. 95-05)

7-313. NOTICE OF COST; ASSESSMENT AND COLLECTION.

- a) If the city takes action to abate the violation, it shall provide a notice of costs to the property owner, representative or tenant. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacated or unoccupied, the notice of costs may also be posted on the property in a reasonable manner. The notice of costs shall state:
 - 1) The common or legal description of the property, or both;
 - 2) The nature of the violation, including relevant ordinances;

- 3) The nature of the work performed to abate the violation;
 - 4) The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
 - 5) That the notice is a demand for payment within thirty (30) days from the date of the notice;
 - 6) That failure to pay the entire amount within thirty (30) days shall allow the city to file a tax lien against the property or to pursue litigation for the recovery of the costs, or both;
 - 7) That such additional remedies to recover costs shall include additional amounts, including additional administrative costs, attorneys' fees when applicable, and interest;
 - 8) That payments shall be made by check or money order made payable to the city, with no post-dating of the check, and sent to the address stated within the notice, with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments.
- b) If the payment of costs is not made within the 30-day period, the city may levy a special assessment for such cost against the lot or piece of land. The city clerk, at the time of certifying other city taxes to the county clerk, shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

Provided further, the city may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the appropriate court as a personal debt.

The city may pursue both assessment and collection at the same time until the full cost, including applicable interest, court costs, attorneys' fees and administrative costs have been paid in full.

(Ord. 95-05)

7-314. ACTION IN MUNICIPAL COURT. If an authorized public officer determines that a violation of this chapter exists, the officer may file a complaint with the Spring Hill Municipal Court for such violation. No other procedures are required as a prerequisite to the filing of a complaint. (Ord. 95-05)

7-315. PENALTY.

- a) Any property owner, representative or tenant found in violation of this chapter shall be subject to prosecution in the Spring Hill Municipal Court. Any person found guilty of violating the provisions of this chapter shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than two thousand five hundred dollars (\$2,500) or imprisonment for a term not to exceed one hundred seventy-nine (179) days, or both; (Ord. 2008-03)
- b) Prosecution of any offender under this chapter does not limit the city's right to pursue assessment or collection of costs as stated in this chapter, or by other laws;
- c) Each day that any violation of this chapter continues shall constitute a separate offense;
- d) The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction of this chapter and to seek civil penalties, and to abate nuisances maintained in violation thereof, and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful nuisance or condition."

(Ord. 95-05)

ARTICLE 4A. WEEDS - GENERAL

7-401A. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(Ord. 99-02)

7-402A. DEFINITIONS.

- (1) **Calendar Year** as used herein, means that period of time beginning January 1 and ending December 31 of the same year.
- (2) **Weeds** as used herein, means any of the following:
 - A. Brush and woody vines shall be classified as weeds;
 - B. Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
 - C. Weeds which bear or may bear seeds of a downy or wingy nature;
 - D. Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
 - E. Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 8 inches in height.

(Ord. 99-02)

7-403A. PUBLIC OFFICER; NOTICE TO REMOVE. The City Administrator shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by restricted mail or by personal service, once per calendar year. If the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner. Such notice shall include the following:

1. That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
2. That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within ten (10) days of the receipt of notice.
3. That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.
4. That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.
5. That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.
6. That no further notice shall be given prior to removal of weeds during the current calendar year.
7. That the public officer should be contacted if there are any questions regarding the order.

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

(Ord. 99-02)

7-404A. ABATEMENT; ASSESMENT OF COSTS.

1. Upon the expiration of ten (10) days after receipt of the notice required by Section 7-403A., and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section 7-401A., the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
2. The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within thirty (30) days following receipt of the notice.

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

(Ord. 99-02)

7-405A. RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this ordinance. (Ord. 99-02)

7-406A. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation. (Ord. 99-02)

7-407A. NOXIOUS WEEDS.

- (a) Nothing in this ordinance shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relation to the control and eradication of certain noxious weeds.
- (b) For the purpose of this section, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L), and Johnson grass (*Sorghum halepense*).

(Ord. 99-02)

7-408A. PENALTY.

- (a) Any person who violates the provisions of this Ordinance shall be guilty of a municipal offense and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00), but not more than two thousand five hundred dollars (\$2,500) or imprisonment for not more than one hundred seventy-nine (179) days, or shall be both so fined and imprisoned. In addition, any violation of this Ordinance shall be grounds for the Governing Body to revoke any or all licenses or permits issued by the City. (Ord. 2008-03)
- (b) Each day that there is a violation of this Ordinance said violation shall constitute a separate offense. (Ord. 99-02)

**ARTICLE 4B. RANK WEEDS, RANK GRASS, AND NOXIOUS PLANTS,
NUISANCES, CUTTING CONTROL, AND PROVIDING PENALTIES**

7-401B. RANK WEEDS, RANK GRASS, AND NOXIOUS PLANTS - NUISANCES. Rank weeds, rank grass, and noxious plants, as hereinafter defined, which are allowed to stand at any season of the year within the City upon any lot, tract, or parcel of land, or along the sidewalk, alley, or street adjacent to such lot, tract, or parcel of land, are hereby declared to constitute a nuisance, provided, that this ordinance shall not apply to land zoned or used for agricultural use which is more than One Hundred Fifty (150) feet distant from any occupied residential subdivision lot, tract, or parcel of land.

It shall be unlawful for the owner of any lot, tract, or parcel of private land, except as hereinbefore provided, to allow rank weeds, rank grass, or noxious plants, as hereinafter defined, to grow or stand upon such premises, and it shall be the duty of such owner to cut and remove or destroy any and all such rank weeds, rank grass,

and noxious plants on such premises.
(Ord. 99-02)

7-402B. RANK WEEDS, RANK GRASS, AND NOXIOUS PLANTS - DEFINITIONS. The following terms, as used herein, unless the context specifically indicates otherwise, are defined as follows:

- a) Rank Weeds: All vegetation which may exhale unpleasant or noxious odors, or transmit pollen into the air at any state of maturity, and which exceeds fifteen (15) inches in height; also, all vegetation, regardless of height, including thickets, which conceals or invites filthy deposits, or which harbors rodents, refuse, or vermin. Such rank weeds, include, but are not limited to, the following:

Large crabgrass, large hairy crabgrass (*digitaria sanguinalis*); barnyard grass (*enchinochloa crusgalli*); Pennsylvania smartweed (*polygonum pennsylvanicum*), ladythumb, smartweed (*polygonum persicaria*); curled dock, sour dock (*remex crispus*); lambsquarter (*chenopodium album*), rough pigweed, redroot (*amaranthus retroflexus*); shepherd's purpose (*capsella bursapastoris*); nodding spurge, upright spotted spurge (*euphorbia maculata*); velvet leaf, Indian mallow (*abutilon theophrasti*); sticktight, blue stickseed (*lappula echinata*); common ragweed (*ambrosia artemisiifolia*); giant ragweed, horseweed, kinghead (*ambrosia trifida*); dandelion (*taraxacum officinale*); cocklebur, clotbur (*xanthium pennsylvanicum*); downy brome grass, downy chess (*bromus tectorum*); devilgrass (*cynoden dactylon*); stinkgrass, lovegrass (*eragrostis cilianensis*); witchgrass, tumble panicgrass (*panicum capillare*); giant foxtail (*setaria faberii*); Johnson grass (*sorghum halepense*); hop sedge, sloughgrass (*carex lupulina*); hemp (*cannabis sativa*); stinging nettle, nettle (*urtica procera*); swamp smartweed, tanweed, devil's shoestring (*polygonum coccineum*); smooth dock (*ruxem altissimus*); maple leaved goosefoot (*chenopodium hybridum*); water hemp (*acnida altissima*); tumbleweed, tumble amaranth (*amaranthus albus*); common milkweed (*asclepias syriaca*); common mullein (*verbascum thapsus*); burdock (*arctium minus*); beggar tick, sticktight, devil's pitchfork (*bidens frondosa*); tall cone flower, golden glow (*rudbeckia laciniata*); gray goldenrod, field goldenrod (*solidago nemoralis*).

- b) Thickets: Dense growths of wide shrubbery having stems or trunks less than one (1) inch in diameter, and briar patches.
- c) Rank Grass: Any other type of grass which exceeds eight (8) inches in height.
- d) Noxious Plants: Poison ivy, poison oak, poison sumac, kudzu (*pueraria lobata*), field bindweed (*convolvulus arvensis*), Russian Knapweed (*centaurea picris*), hoary cress (*lepidium draba*), Canada thistle (*cirsium arvense*), quackgrass (*agropyron repens*), leafy spurge (*euphorbia esula*); burragweed (*franseria tomentosa* and *discolor*), pignut (*hoffmannseggia densiflora*), musk (nodding), and thistle (*carduus nutans*), at any height or state of maturity.
- e) Owner: The term "owner" shall include the real and actual owner of the fee title, the life tenant, occupant, tenant, lessee, tenant at will, tenant at sufferance, adverse possessor, and any other person, firm, partnership, corporation or association, or any agent, broker or representative thereof, asserting or having any right, title, or interest in any lot, tract, or parcel of land in the City. The land records filed in the office of the recorder of deeds of the county within which any such lot, tract, or parcel of land shall be located, and any other official record of such county or of the City, may be used to determine such owner, as hereinbefore defined, as of any given date.

(Ord. 99-02)

7-403B. PUBLICATION OF NOTICE TO CUT, REMOVE, OR DESTROY. Whenever, during the growing season, the Director of Public Works shall determine that rank weeds, rank grass, or noxious plants as defined herein, or any combination thereof, are prevalent in all sections of the City, and constitute a threat to the public health, comfort, safety, or welfare, said Director shall cause a notice to be inserted in a newspaper authorized to carry legal publications within the county, notifying all owners as herein defined, of lots, tracts, or parcels of private land in the City, to cut and remove or destroy any and all such rank weeds, rank grass, or noxious plants, or both, as hereinbefore defined. Such notice shall state that all owners, as herein defined, of lots, tracts, or parcels of private land in the City are responsible for the cutting, removing, or destruction of such rank weeds and noxious plants thereon, within ten (10) days after the publication of said notice; that the

failure, neglect, or refusal of any such owner, within such period, to cut and remove or destroy such rank weeds and noxious plants on any such lot, tract, or parcel of private land, renders such owner guilty of a misdemeanor for which he may be prosecuted in the municipal court upon complaint of the Director of Public Works, and upon conviction, fined not more than One Hundred Dollars (\$100.00); and that such failure, neglect, or refusal, within such period, may entitle the City to cut and remove or destroy such rank weeds, rank grass, and noxious plants and to assess the costs thereof as a special assessment constituting a lien against the property from which weeds have been cut and removed or destroyed. Publication of such notice shall be deemed sufficient notice to the owners, as hereinbefore defined, of any lot, tract, or parcel of land in the City upon which rank weeds, rank grass, or noxious plants stand or grow, for enforcement hereof. (Ord. 99-02)

7-404B. OFFENSES.

- a) Upon failure, neglect or refusal of any owner to comply with the notice hereinabove provided, the Director of Public Works shall, unless the owner is unknown or is a non-resident, and there is no resident agent, send by restricted mail or personal service a letter to the owner of the property at his last known address, notifying said owner that he is in violation of said ordinance and if said nuisance is not abated within five (5) days thereafter, the Director of Public Works shall cause a complaint to be filed against such owner for violation of the provisions hereof, upon which a complaint may be filed by the City prosecutor in the municipal court; and no such owner shall be exempted from prosecution for violation of such provisions by reason of lawfully transferring his ownership, tenancy, or interest in the premises upon which the nuisance exists, after publication of notice as hereinbefore provided. K.S.A. 12-1617f.
- b) In cases where the owner is unknown or is a nonresident, and there is no resident agent, the foregoing notice shall be published in the official paper. If said nuisance is not abated within ten (10) days thereafter, the Director of Public Works shall cause a complaint to be filed against such owner for violation of the provisions hereof, upon which a complaint may be filed by the City Prosecutor in the municipal court; and no such owner shall be exempted from prosecution for violation of such provisions by reason of lawfully transferring his ownership, tenancy, or interest in the premises upon which the nuisance exists, after publication of notice as hereinbefore provided. K.S.A.12-1617f.
- c) The foregoing notices shall state that before the expiration of the waiting period provided herein, the recipient thereof may request a hearing before the governing body or its designated representative. The notice shall include the abatement and collection procedures set forth in Section 7-405 (a) and (c). Such notice also shall state that the payment of the costs incurred by the City are due and payable within thirty (30) days following receipt of the notice.

(Ord. 99-02)

7-405B. ABATEMENT OF NUISANCE BY CITY - SPECIAL ASSESSMENT FOR COSTS:

- a) Upon the failure, neglect, or refusal of any owner to comply with the written notice hereinbefore provided or fails to request a hearing, the Director of Public Works shall then abate the nuisance by cutting and removing or destroying any rank weeds, rank grass, and noxious plants; and for the purpose of so doing, the Director of Public Works may enter the premises upon which such nuisance exists, with or without the consent of the owner thereof, without being guilty of trespass.
- b) Whenever such nuisance has been abated by the Director of Public Works as aforesaid, and the owner of the premises shall have been found guilty of violating the provisions of this ordinance with respect to the same nuisance so abated by the Director of Public Works, the Court may assess against such owner, as additional costs, the costs incurred by the Director of Public Works in abating such nuisance, including as reasonable costs of administering the provisions hereof, a sum not to exceed One Hundred Dollars (\$100.00).
- c) Whenever such nuisance is abated by the Director of Public Works, the cost of such abatement shall be assessed as a special tax constituting a lien against the property from which abated. The Director of Public Works shall determine the costs of such abatement, including as reasonable costs of administering the provisions hereof, a sum not to exceed \$100.00, and certify a statement thereof

describing the real estate upon which such abatement was performed, to the City Clerk as a special assessment on such real estate; and the City Clerk shall at the time of certifying other City taxes to the County Clerk, certify the assessed costs as to any such lot or parcel of ground and the County Clerk shall respectively extend the same on the tax roll of the county against said lot or parcel of ground and it shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid. (K.S.A. 12-1617e).

The City may also collect costs incurred by the City in the manner provided by K.S.A. 12-1,115, and amendments thereto. The City may pursue collections both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(Ord. 99-02)

7-406B. APPLICATIONS TO CORPORATIONS. Any officer or registered agent for a corporation which is the owner of any real property on which rank weeds, rank grass, or noxious plants stand or grow, who shall have been notified by publication of notice as provided for herein, upon the failure, neglect, or refusal of such corporation to comply with such notice, shall be guilty of violating the provisions hereof; and notice to any such officer or registered agent, as shown by the Articles of Incorporation of such corporation or the latest amendment thereof on file in the office of the recorder of deeds of the county in which filed, or in the file of the office of the Secretary of State of the State of Kansas, shall constitute notice to such corporation.

(Ord. 99-02)

7-407B. PENALTIES. Violation of any provision of this ordinance shall be deemed a misdemeanor; and any person violating any of such provisions shall be punished by a fine of not more than Two Thousand Five Hundred Dollars (\$2500.00). Each day on which rank weeds or noxious plants remain on any premises after the duty of the owner arises hereunder to cut and remove or destroy same, shall constitute a separate offense, for which the owner thereof may be arrested, tried, convicted, and punished separately, without necessity of further notice.

(Ord. 2008-03)

ARTICLE 5. COMMUNITY FORESTRY PROGRAM

7-501. DEFINITIONS.

Community Forest: "Community Forest" is herein defined as all street and park trees as a total resource.

Park Trees: "Park Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City or which the public has free access as a park.

Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines on either side of all streets, avenues or ways within the City.

Green Board: Formerly known as the Tree Board, name changed to the Parks Advisory Board to be called the Green Board is herein defined as the Board established pursuant to Ordinance No. 2004-35.

(Ord. 2008-05)

7-502. STREET TREE SPECIES TO BE PLANTED. The City of Spring Hill, Kansas, shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest. (*See Zoning Regulations, Section 17.358.G2 and G3 for the list of preferred trees

and prohibited trees for planting.) (Ord. 2008-05)

7-503. SPACING AND DISTANCES. Street trees may be planted no closer together than thirty (30) feet except in special plantings approved by the Director of Public Works. (Ord. 2008-05)

7-504. DISTANCES AND CLEARANCE FOR PLANTING. Street trees may be planted in the tree lawn where there is more than six (6) feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three (3) feet from a sidewalk or street.

No street tree shall be planted closer than twenty (20) feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines.

No street tree shall be planted closer than ten (10) feet from any fireplug.

Nothing which obstructs sight lines at elevations between two feet and eight feet above roadways shall be located at any corner lot within the triangular area formed by the right of way lines and a line connecting them at points 25 feet from their point of intersection or at equivalent points on private streets.

Special permission must be obtained from the Director of Public Works when planting street trees within ten (10) feet of any point on a line on the ground immediately below any overhead utility wire, or within five (5) lateral feet of any underground water line, sewer line, transmission line, or other utility.

In any instance where this ordinance conflicts with the City's zoning ordinance, the zoning ordinance shall take precedence.

(Ord. 2008-05)

7-505. PUBLIC TREE CARE. The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds, as may be necessary to insure the public safety or to preserve or enhance the beauty of such public grounds.

The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is seriously affected with any injurious insect or disease.

The abutting property owners shall have the right to perform normal tree care on all street trees.

(Ord. 2008-05)

7-506. PERMIT REQUIRED. No person shall plant a street tree or any other tree in the public right-of-way without first obtaining permission from the Director of Public Works. The Green Board shall be notified by the City Administrator that said permission has been granted by the Director of Public Works. (Ord. 2008-05)

7-507. TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Director of Public Works. (Ord. 2008-05)

7-508. CLEARANCES OVER STREETS AND WALKWAYS. Clearance over streets and walkways

shall be the responsibility of the abutting property owner. A clearance of eight (8) feet must be maintained over walkways and a clearance of twelve (12) feet must be maintained over streets. Property owners are responsible for trees on their own property as well as trees on the public way that abut their property.

7-509. DEAD OR DISEASED TREE REMOVAL. The City shall remove or cause to be removed any dead or diseased tree within the City Limits. Diseased trees are defined as those trees that may constitute a hazard to life and property, or harbor insects or disease which represent a potential threat to other trees within the City. The Code Enforcement Officer will notify in writing the owner of such trees and removal shall be accomplished within sixty (60) days of notification. In the event of failure to remove by the Owner, the City shall have the authority to remove such trees, assess costs and can charge the cost of removal and an administrative fee to property owners on the property tax notice. (Ord. 2008-05)

7-510. REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

7-511. INTERFERENCE WITH THE ENFORCEMENT. It shall be unlawful for any person to prevent, delay or interfere with the CITY or any of its representatives or agents while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any tree within the community forest, as authorized by this ordinance. (Ord. 2008-05)

7-512. ACCESS. It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representatives in the legal performance of any section of the ordinance.

7-513. REVIEW BY CITY ADMINISTRATOR. The City Administrator shall have the right to review the conduct, acts and decisions, of its representatives or agents. Any person may appeal from any ruling or order of the Code Enforcement Officer or Director of Public Works to the City Administrator who may hear the matter and make a final decision. (Ord. 2008-05)

ARTICLE 6. SMOKING IN RESTAURANTS AND DRINKING ESTABLISHMENTS

This section was created by Ord. 2004-14 and repealed by Ord. 2004-37.