

PART 8
HEALTH AND SANITATION

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CHAPTER 1

WEEDS AND TRASH

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8-101: **ACCUMULATION OF TRASH OR WEEDS UNLAWFUL:** It is unlawful for any owner of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the town to allow trash or weeds to grow, stand or accumulate upon such premises and it is the duty of such owner to remove or destroy any such trash or weeds. (Prior code § 11-14)

1. See subsection 8-112A of this chapter.

8-102: **DEFINITIONS:** As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

- LITTER:** The act of throwing any trash, refuse, waste-paper, tin can, bottles, materials which have been lighted and not extinguished, any substances or liquids of any kind that are dangerous to the health and safety of any person or animals or the utilities of the town, or any other object or substance whatever upon the public streets, alleys, roadways and sidewalks of the town or upon any real property owned or occupied by another.
- OWNER:** The owner of record as shown by the most current tax rolls of the county treasurer.
- TRASH:** Any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which is uncared for, discarded or abandoned.
- WEEDS:** Includes, but is not limited to, poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:
- A. Exceeds twelve inches (12") in height, except healthy trees, shrubs or produce for human consumption or grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;
 - B. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;
 - C. Harbors rodents or vermin;
 - D. Gives off unpleasant or noxious odors;

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E. Constitutes a fire or traffic hazard; or

F. Is dead or diseased.

The term "weed" does not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty feet (150') from a parcel zoned for other than agricultural use. (Prior code § 13-20; amd. Ord. 2011-03-04, 3-8-2011)

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Town of Luther

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8-103: **REPORTS OF ACCUMULATION OF GRASS, WEEDS OR TRASH ON PROPERTY¹:**

- A. Any officer or employee of the town who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the town, shall report the condition to the town clerk-treasurer if, as a result of the accumulation or growth, the premises appear to be:
1. Detrimental to the health, benefit and welfare of the public and the community;
 2. A hazard to traffic;
 3. A fire hazard to property; or
 4. Any two (2) or more of these conditions. (Prior code §§ 13-11, 13-12)

8-104: **CLEANING AND REMOVAL OF TRASH AND WEEDS:**

- A. The town of Luther may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:
1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the town of Luther and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the town. At the time of mailing of notice to the property owner, the town of Luther 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. However, if the property owner cannot be located within ten (10) days from the date of mailing by the town of Luther, notice may be given by posting a copy of the notice on the property or by publication, as defined in 11

1. 11 OS § 22-111.

Oklahoma Statutes section 1-102, one time not less than ten (10) days prior to any hearing or action by the town of Luther. If the town of Luther anticipates summary abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the municipal governing body; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;

2. The owner of the property may give written consent to the town of Luther authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives the owner's right to a hearing by the town of Luther;

3. A hearing may be held by the board of trustees or the administrative hearing officer to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the town of Luther are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the town of Luther. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the town of Luther, and stating that the town of Luther claims a lien on the property for the cleaning or mowing costs;

5. The board of trustees shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The town clerk shall forward by mail to the property owner specified in subsection A1 of this section a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the town of Luther, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance,

and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, then within the next sixty (60) days, the town clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. 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. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. If the county treasurer and the town of Luther agree that the county treasurer is unable to collect the assessment, the town of Luther may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the town clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

7. The town of Luther may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body in this subsection A. The property owner shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the town clerk within ten (10) days after the administrative order is rendered.

- B. If a notice is given by a town of Luther to a property owner ordering the property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in subsection A of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six (6) month period may be declared to

be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the town of Luther shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection A of this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in subsections A5 and A6 of this section. This subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection A of this section.

- C. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma corporation commission. However, the town of Luther 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 (10) yards of, the public right of way at intersections. (Ord. 2008-06-11, 6-23-2008)

8-104.1: **ADMINISTRATIVE OFFICER TO CONDUCT HEARINGS:**
Pursuant to 11 Oklahoma Statutes sections 22-111(A)(7) and 22-112(B), there is hereby designated an administrative officer to carry out the duties of the board of trustees in regard to giving notice of a violation, conducting hearings and other duties set forth in section 8-104 of this chapter and the above referenced statutes. The designee appointed by a majority vote of the board of trustees is given authority to carry out the duties of the board of trustees to take care of all of the procedures and requirements of this chapter and state law, 11 Oklahoma Statutes sections 22-111 and 22-112. Any property owner who is aggrieved by the actions of the administrative officer shall have a right of appeal to the board of trustees from any order of the administrative officer. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered. (Ord. 2004-7-1, 7-12-2004)

8-105: **WORK DONE BY EMPLOYEES OR CONTRACT:** (Rep. by Ord. 2008-06-11, 6-23-2008)

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8-106: **DETERMINATION AND ASSESSMENT OF COSTS:** (Rep. by Ord. 2008-06-11, 6-23-2008)

8-107: **LIEN ON THE PROPERTY; CIVIL REMEDY:** (Rep. by Ord. 2008-06-11, 6-23-2008)

8-108: **SERVICE OF NOTICE:** (Rep. by Ord. 2008-06-11, 6-23-2008)

8-109: **ABANDONED ICEBOXES OR REFRIGERATORS:** It is unlawful for any person, firm or corporation to leave in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator, or other container which has an airtight door with a lock or other fastening device which cannot be easily released for opening from the inside of the icebox, refrigerator or container, without first removing the door, lock or fastener. (Prior code § 11-15)

8-110: **UNLAWFUL TO DEPOSIT RUBBISH:** It is unlawful for any person to throw, place or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trees, brush or any other refuse or waste matter in any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this town. (1984 Code)

8-111: **REMOVAL OF DEAD ANIMALS:** The owner or any person having charge of any animal dying in this town, shall within twenty four (24) hours after the death of such animal, remove its carcass, and failure so to do shall constitute a misdemeanor. (1984 Code)

8-112: **UNLAWFUL TO LITTER:**

- A. It is unlawful for any person to litter, whether from an automobile or any other vehicle, or while passing through the town by any means.
- B. Any person who disposes any material that has been lighted but not extinguished, or any substances or liquids of any kind that are dangerous to the health and safety of any person or animals or the utilities of the town, shall be guilty of aggravated littering, and shall

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be assessed the maximum fine allowed by law. (Ord. 2011-03-04, 3-8-2011)

8-113: **UNLAWFUL TO LITTER FROM AUTOMOBILES¹:** (Rep. by Ord. 2011-03-04, 3-8-2011)

8-114: **LITTER NOT TO ACCUMULATE ON PROPERTY:**

- A. It is unlawful for any person, firm or corporation, occupying any real property, either as tenant or owner, to allow trash, wastepaper, litter objects, bottles, cans or any other used or disposed of objects to accumulate upon such real property or premises being so occupied or rented to such an extent as to constitute a littering nuisance.
- B. It is unlawful for any person, firm or corporation occupying any real property, either as tenant or owner, to allow accumulated trash, wastepaper, litter objects, bottles, tin cans or any other used or disposed of objects to be carried from the occupied premises, either by the wind, elements or otherwise to any adjoining or other real estate not so owned or occupied by the offender. (1984 Code)

8-115: **BURNING TRASH UNLAWFUL:**

- A. Except as otherwise provided in this code, it is unlawful for any individual, person, firm or corporation to burn any trash, garbage, leaves, limbs or other refuse within the limits of the town. This section shall not apply to the burning of such items in incinerators constructed inside buildings for that specific purpose and which have been approved by the chief of the fire department.
- B. No permission shall be granted for burning of trash, garbage, papers or waste of any kind, other than for weeds and grass. If any person or resident feels aggrieved by this section he may appeal to the town board at its regular meetings within a reasonable time after the refusal of the chief of the fire department to issue such burning permit. (Ord. 77-3, 1-18-1977)

1. See subsection 8-112A of this chapter.

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8-116: BURNING WEEDS; PERMIT REQUIRED; LIABILITY:

- A. It is permissible for any person or resident of the Town to burn off high weeds, grass, leaves, limbs or other refuse on property owned or leased or under the control of such persons or residents.
- B. No person or resident shall burn off any high weeds, grass, leaves, limbs or other refuse in the Town without having first obtained a written permit from an officer of the Fire Department granting such person or resident permission to do such burning.
- C. No officer of the Fire Department shall issue a permit until he is satisfied that the person or resident has taken adequate safety precautions to control the fire and that the weather conditions and wind velocity would not cause an undue hazard and that no adjacent improvements would be unduly endangered.
- D. No permit shall be issued except for burning during daylight hours.
- E. Any person or resident obtaining a permit to burn high weeds, grass, leaves, limbs or other refuse does so at his own risk. In no event shall any liability for damages be imposed upon the officer of the Fire Department issuing the permit or the Town if damages are sustained as a result of any burning of high weeds, grass, leaves, limbs or other refuse pursuant to any such permit. (Ord. 2017-18, 9-12-2017)

8-117: STORING, PARKING OF DISMANTLED VEHICLE IS NUISANCE:

- A. For the purpose of this section, the following terms shall have the meanings respectively ascribed to them in this section:

**JUNKED
MOTOR
VEHICLE:**

Any "motor vehicle", as defined in this subsection, which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

**MOTOR
VEHICLE:**

Any vehicle which is self-propelled and designed to travel along the ground and shall

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include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, and recreational vehicles.

- B. No person shall park, store, leave or permit the parking, storing or leaving of any junked motor vehicle, whether attended or not, upon any public or private property within the Town for a period of time in excess of seventy two (72) hours. The presence of the junked motor 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 Code. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise lawfully licensed by the Town and properly operated in the appropriate business zone, pursuant to the zoning laws of the Town or to any vehicle retained by the owner for antique collection purposes. (Ord. 82-3, 9-21-1982)

8-118: **PENALTY:** Any person, firm or corporation who violates any of the provisions of this chapter or shall allow the premises occupied to become unsanitary, or who shall in any manner violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-108 of this Code. (Prior Code § 11-16)

CHAPTER 2

FOOD SERVICE SANITATION

Section 8-201 U. S. Food Service Sanitation Ordinance adopted.
 Section 8-202 No fee required for permit.

SECTION 8-201 U. S. FOOD SERVICE SANITATION ORDINANCE ADOPTED.

A. The "United State Public Health Service Food Service Sanitation Ordinance and Code," the latest edition thereof is hereby adopted and incorporated herein by reference. The ordinance shall govern positions on the definitions, the inspection of food service establishments, the issuance, suspension, and revocation of permits to operate food service establishments, the prohibiting of the sale of adulterated or misbranded food or drink, and the enforcement of this chapter. At least three (3) copies of the food service sanitation ordinance shall be on file in the town clerk's office.

B. In the food service sanitation ordinance all parenthetical phrases referring to grading and subsection H.2.e. shall be understood to be deleted.

C. Subsections H.7. and H.8. shall be understood to be deleted. (Prior Code, Sec. 11-11)

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

SECTION 8-202 NO FEE REQUIRED FOR PERMIT.

No fee shall be required for a permit to operate a food service establishment, as required in Section 8-201 of this code. (Prior Code, Sec. 11-12)

CHAPTER 3

MILK AND MILK PRODUCTS

Section 8-301	Milk ordinance adopted.
Section 8-302	Grades of milk which may be sold.
Section 8-303	Enforcement by whom.

SECTION 8-301 MILK ORDINANCE ADOPTED.

The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for the ultimate consumption within the town, or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of the "Milk Ordinance - Recommendations of the Public Health Service Revised to Comply with Oklahoma State Statutes," a certified copy of which shall be filed in the office of the town clerk. Sections 9 and 16 of the unabridged ordinance shall be replaced, respectively by Sections 8-302 and 8-303 of this code. (Prior Code, Sec. 11-8)

State Law Reference: State laws regulating milk and milk standards, 63 O.S. Sections 1-1301 et seq.; state laws governing milk manufacturers, 20 O.S. Sections 7-1 et seq.

SECTION 8-302 GRADES OF MILK WHICH MAY BE SOLD.

Only certified pasteurized and grade A pasteurized, and certified raw or grade A raw milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments. However, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority; in which case, such milk and milk products shall be labeled "ungraded." (Prior Code, Sec. 11-9)

SECTION 8-303 ENFORCEMENT BY WHOM.

All sampling, examining, grading, and regrading of milk and milk products and all inspections, and issuing and suspension or revocation of permits shall be done by the director of the county health department or his authorized representative, who shall be a registered professional sanitarian. (Prior Code, Sec. 11-10)

CHAPTER 4

NUISANCES

Section 8-401	Nuisance defined; public nuisances; private nuisances.
Section 8-402	Persons responsible.
Section 8-403	Time does not legalize.
Section 8-404	Remedies against public nuisances.
Section 8-405	Remedies against private nuisances.
Section 8-406	Town has power to define and summarily abate nuisances.
Section 8-407	Certain public nuisances in the town defined.
Section 8-408	Summary abatement of nuisances.
Section 8-409	Abatement by suit in district court.
Section 8-410	Nuisance unlawful.
Section 8-411	Health nuisances; abatement.
Section 8-412	Toilet facilities required; nuisance.
Section 8-413	Procedure cumulative.

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

A. A nuisance is unlawfully doing an act, or omitting to perform a duty, or is any thing or condition which either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;
2. Offends decency;
3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
4. In any way renders other persons insecure in life or in the use of property.

B. A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

C. Every nuisance not included in Subsection B above is a private nuisance. (Prior Code, Sec. 13-1)

State Law Reference: Power to define, abate nuisances, procedure, 50 O.S. Sections 1 et seq.

SECTION 8-402 PERSONS RESPONSIBLE.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefor in the same manner as the one who first created it. (Prior Code, Sec. 13-2)

SECTION 8-403 TIME DOES NOT LEGALIZE.

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right. (Prior Code, Sec. 13-3)

Health and Sanitation

Sec. 8-404

Sec. 8-407

SECTION 8-404 REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court;
2. Prosecution on information or indictment before another appropriate court;
3. Civil action; or
4. Abatement:
 - a. By person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or
 - b. By the town in accordance with law or ordinance.

(Prior Code, Sec. 13-4)

SECTION 8-405 REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

1. Civil action;
2. Abatement:
 - a. By person injured as provided in Sections 14 and 15 of Title 50 of the Oklahoma Statutes; or
 - b. By the town in accordance with law or ordinance.

(Prior Code, Sec. 13-5)

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

As provided in Section 16 of Title 50 of the Oklahoma Statutes, the town has power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks, and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the town has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done. (Prior Code, Sec. 13-6)

SECTION 8-407 CERTAIN PUBLIC NUISANCES IN THE TOWN DEFINED.

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

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

2. The sale, offering for sale, or furnishing of intoxicating liquor in violation of the state law or ordinances of the town; or keeping of a place where intoxicating liquor is sold, offered for sale, or furnished in violation of the state law or ordinances of the town;
3. The exposure, display, sale, or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;
4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;
5. The keeping of a place where prostitution, illicit sexual intercourse, or other immoral acts are practiced;
6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
7. The conduct or holding of public dances in violation of the ordinances of the town; or the keeping of a place where such dances are held;
8. The public exposure of a person having a contagious disease;
9. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises;
10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
11. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance;
12. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;
13. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned, or situated as to endanger the public safety;
14. Rank weeds or grass, carcasses, accumulations of manure, refuse, or other things, which are, or are likely to be, breeding places for flies, mosquitoes, vermin, or disease germs; and the premises on which such exist;
15. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
16. Any pit, hole, or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
17. Any fire or explosion hazard which endangers the public safety;
18. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;

19. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate as required by law for vehicles used on the public highways, when stored or kept in a residence district;

20. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this town, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation, is hereby declared to be a nuisance; and

21. Every building or other structure that shall become unsafe and dangerous from fire, decay or other cause, or shall become hazardous from fire, by reason of age, decay or construction, location or other cause, or shall be detrimental to the health, safety or welfare of this town or its inhabitants from any cause, is hereby declared to be a nuisance.

The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms. (Prior Code, Sec. 13-7)

SECTION 8-408

SUMMARY ABATEMENT OF NUISANCES.

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

B. The chief of the fire department, the chief of police, the town attorney, the building inspector, the electrical inspector, the plumbing inspector, or any other officer subordinate to the mayor may submit through or with the consent of the mayor to the town board of trustees, a statement as to the existence of a nuisance as defined by the ordinances of the town or law, and a request or recommendation that it be abated. The mayor himself, the health officer, any councilman, or any resident or residents of the town may submit such a statement and request a recommendation to the town board of trustees.

C. The town board of trustees shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the board shall have power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance or have it abated, the board 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 such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer if their names and addresses are known; but, if the names 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 town.

D. If the board of trustees finds that a nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the nuisance to abate it

within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay. If such peace, health, safety, morals, or welfare would be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the board shall direct the mayor to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by Section 16 of Title 50 of the Oklahoma Statutes. The town clerk shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the town collectible as other debts of the town may be collected. (Prior Code, Sec. 13-8)

SECTION 8-409ABATEMENT BY SUIT IN DISTRICT COURT.

In cases where it is deemed impractical summarily to abate a nuisance, the town may bring suit in the district court of the county where the nuisance is located, as provided in Section 17 of Title 50 of the Oklahoma Statutes. (Prior Code, Sec. 13-9)

SECTION 8-410NUISANCE UNLAWFUL.

It is unlawful for any person, including but not limited to any owner, lessee, or other person to create or maintain a nuisance within the town or to permit a nuisance to remain on premises under his control within the town. (Prior Code, Sec. 13-10)

SECTION 8-411HEALTH NUISANCES; ABATEMENT.

A. Pursuant to authority granted by Section 1-1011 of Title 63 of the Oklahoma Statutes, the health officer shall have authority to order the owner or occupant of any private premises in the town to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be reasonable, and a failure to do so shall constitute an offense. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a policeman, or a copy thereof may be left at the last usual place of abode of the owner, occupant, or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant, or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the town.

B. If the order is not complied with, the health officer may cause the order to be executed and complied with, and the cost thereof shall be certified to the town clerk, and the cost of removing or abating such nuisance shall be added to the water bill or other town utility bill of the owner or occupant if he is a user of water from the town water system or such other utility service. The cost shall be treated as a part of such utility bill to which it is added, and shall become due and payable, and be subject to the same regulations relating to delinquency in payment, as the utility bill itself. If such owner or occupant is not a user of any town utility service, such cost, after certification to the town clerk, may be collected in any manner in which any other debt due the town may be collected. (Prior Code, Sec. 13-21)

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

SECTION 8-412 TOILET FACILITIES REQUIRED; NUISANCE.

A. For the purpose of this section, the following terms shall have the respective meanings ascribed to them herein:

1. "Human excrement" means the bowel and kidney discharge of human beings;

2. "Sanitary water closet" means the flush type toilet which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times;

3. "Sanitary pit privy" means a privy which is built, rebuilt, or constructed so as to conform with the specifications approved by the state health department.

B. Every residence and building in which humans reside, are employed or congregate shall be required to have a sanitary method for the disposal of human excreta, namely, sanitary water closet or closets, or septic tanks. The toilets required by this chapter shall be the sanitary water closet type when located within two hundred and fifty (250) feet of a sanitary sewer and accessible thereto, and the septic tank type when not so located.

C. No septic tank shall be constructed within the corporate limits of the town without a permit from the city health officer or county health officer, and same must comply with the requirements of the state health department.

D. All connections from the public water supply to toilets and other plumbing fixtures shall be made in such a manner as to make impossible the return of any of the water, liquid or waste from the toilet or other plumbing fixtures to the public water supply distributing system either by gravity or syphonage.

E. The cost of providing for a sanitary method of disposal of human excreta shall be borne by the owner or owner's agent of the property.

F. It is the duty of the board of trustees to appoint the health officer, city marshal or other duly authorized representative to make an inspection of the methods of disposal of sewage within the town within thirty (30) days after the passage of this section and as frequently thereafter as is necessary to secure compliance with this section. Written notification of any violation of this section shall be given by the health officer, city police chief or their duly authorized representative to the owner or owner's agent and occupant of the property upon which the violation occurs. If the provisions of this section have not been complied with within the period of fifteen (15) days following date of notice of violation, the owner or owner's agent of the property will be prosecuted in accordance with the provisions of this section.

G. All septic tanks installed on any premises within the incorporated limits of the town, not constructed and maintained in conformation with the provisions of this section are declared to be a nuisance and a menace to public health. (Prior Code, Secs. 11-1 to 11-7)

SECTION 8-413 PROCEDURE CUMULATIVE.

The various procedures for abating nuisances prescribed by this chapter and by other provisions of law and ordinance shall be cumulative on to any other penalties or procedures authorized. (Prior Code, Sec. 13-22)

CHAPTER 5

ENFORCEMENT AND PENALTY

Section 8-501	County health department designated to enforce health ordinances.
Section 8-502	Obstructing health officer.
Section 8-503	Violations.
Section 8-504	Penalty.

SECTION 8-501 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it shall be construed to mean the director of the county health department or his duly designated representative. It is the intent and purpose of the mayor and town board to delegate the enforcement of the health ordinances of this town as set out in this section and any such decisions rendered under this section shall be subject to review by the governing board upon an appeal from an offender.

SECTION 8-502 OBSTRUCTING HEALTH OFFICER.

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

SECTION 8-503 VIOLATIONS.

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

SECTION 8-504 PENALTY.

Any person who violates any provision of this chapter or any law or code adopted by reference in this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. In addition thereto, such person may be enjoined from continuing such violations. (Prior Code, Sec. 13-23)

CHAPTER 6

DILAPIDATED BUILDINGS

SECTION:

8-601: Removal Of Dilapidated Buildings

8-601: **REMOVAL OF DILAPIDATED BUILDINGS:**

- A. The town of Luther may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the following procedures:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the town of Luther holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the municipality 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. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication as defined in 11 Oklahoma Statutes section 1-102. The notice may be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the town of Luther to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property;

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the town of Luther may cause the dilapidated building to be torn down and removed. The town of Luther shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the town of Luther at the hearing, and stating that the town of Luther claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the town of Luther are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the town of Luther if the work is not performed by the property owner within dates fixed by the town of Luther. Any action to challenge the order of the town of Luther shall be filed within thirty (30) business days from the date of the order;

4. The town of Luther shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The municipal clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in subsection A1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the town of Luther 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. If the town of Luther dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder; and

5. When payment is made to the town of Luther for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located.

Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. If the county treasurer and the town of Luther agree that the county treasurer is unable to collect the assessment, the town of Luther may pursue a civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

- B. The town of Luther may designate, by ordinance, an administrative officer or administrative body to carry out the duties of the town of Luther specified in this section. The property owner shall have the right of appeal to the board of trustees of the town of Luther from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

- C. For the purposes of this section:

**DILAPIDATED
BUILDING:**

1. A structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public,

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

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

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

5. A structure declared by the town of Luther to constitute a public nuisance.

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

- D. Nothing in the provisions of this section shall prevent the town of Luther from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.
- E. The officers, employees or agents of the town of Luther shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.
- F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (Ord. 2008-06-10, 6-10-2008)