

ARTICLE XIII. NUISANCE OVERLAY DISTRICT

Section 13.01. Legal Authority. The Nuisance Overlay District regulations are adopted under the authority granted to the Board of County Commissioners of Saline County, Kansas by K.S.A. 19-101 through 19-101(f) and amendments thereto. It is hereby established in Saline County, Kansas that the Zoning Administrator, appointed under the provisions of Resolution 1254, shall be the officer charged with the administration and enforcement of the Nuisance Overlay District.

Section 13.02. Declaration of Finding and Policy. The Board of County Commissioners finds that provisions for adequate and reasonable control over the following conditions are necessary and desirable:

1. **nuisances;** activities that essentially interfere with the comfortable enjoyment of life and property, or conditions that tend to depreciate the value of the property of others; and
2. **dangerous buildings;** any structure that is in such a state of dilapidation, deterioration or disrepair as to cause injury, annoyance or inconvenience to the public.

Therefore, the adoption of regulations to eliminate and prevent the development of the conditions noted above that either are or have the potential to be injurious to the health, safety, and welfare of the inhabitants of unincorporated Saline County, Kansas is in the best public interest.

Section 13.03. Purpose. The purpose of this article is to protect, preserve, upgrade, regulate and promote the environmental quality of unincorporated Saline County by making it unlawful to maintain conditions which are injurious to the health, safety and welfare of the inhabitants within unincorporated Saline County; to remove conditions which are detrimental to the structural integrity of the built environment including those conditions affecting adjoining property, the neighborhood or the County; and to provide for the uniform administration and enforcement thereof.

Section 13.04. Area of applicability and effective date. This resolution shall be in effect for all areas of unincorporated Saline County that include the following:

1. a single-family residential subdivision;
2. an unincorporated community;
3. a surveyor's plat; and
4. all land within 250 feet of items 1, 2 and 3 above.

This resolution shall become effective upon its date of publication and any amendments or revisions shall become effective on the date of adoption thereof.

Section 13.05. Definitions.

1. **Dilapidation, Deterioration or Disrepair.** Any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.
2. **Garbage:** Putrescible waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, product and other foods, including unclean containers.
3. **Inoperable Motor Vehicle:** A condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose of which it was originally constructed. An inoperable motor vehicle is:

- A) Not currently registered or tagged pursuant to K.S.A.8-126 to 8-149 inclusive, as amended; or
 - B) Incapable of moving under its own power; or
 - C) In a junked or wrecked condition, including but not limited to having broken window(s), flat tire(s) or missing body (**chassis?**) part(s).
4. **Person:** Any individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation, including a municipal corporation, who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, and whether or not in possession.
5. **Personal Interest Vehicle:** means any of the following:
- A) **Parts Car** means a motor vehicle generally not in operable condition which is owned by a collector to furnish parts which will enable the collector to restore, preserve and maintain a Special Interest Vehicle.
 - B) **Special Interest Vehicle** means a motor vehicle which is at least 20 years old and which may or may not have been altered or modified from the original manufacturer's specifications. Special Interest Vehicle includes the following:
 - i. **Street Rod Vehicle** means any vehicle manufactured before 1949 that when altered or modified is referred to as a Street Rod.
 - ii. **Antique Vehicle** means any vehicle that is at least 35 years old.
 - iii. **Sport or Racing Vehicle** means any vehicle in operable or inoperable condition specifically adapted or designed for operation on drag strips, raceways or streets, equipped with performance modifications or appearance modifications including but not limited to custom paint, special body additions, spoilers, custom wheels, etc.
 - iv. **Restoration Vehicle** means any motor vehicle in which any or all major components are to be restored to original or working condition to enable the motor vehicle to perform in the manner for which it was designed.
 - v. **Fix-Up or Repair Vehicle** means any motor vehicle that is normally used for daily use, but that is temporarily unable to perform its normal function. Such vehicle must bear a current registration plate.
6. **Property:** Any privately owned lot or tract of land, whether vacant or occupied and all buildings, structures or facilities located thereon.
7. **Refuse:** Solid waste other than that normally produced by domestic, agricultural, commercial or industrial activities. Such waste may include, but is not limited to, bulky items such as furniture, appliances, shipping crates and hazardous materials which may be dangerous, offensive, or create nuisance conditions. The term refuse shall include waste products from the construction, remodeling, demolition, or repair of any building, or resulting from any construction or building operation.
8. **Trash:** All non-putrescible materials such as paper, tin cans, bottles, glass, crockery, rags, ashes, lawn and tree trimmings, tree branches, limbs, tree trunks and stumps, boxes and barrels, wood and excelsior, street sweepings and mineral refuse. This term does not include earth and lumber waste from building operations. .
9. **Unsanitary:** Any accumulation of trash, waste, refuse or garbage inside a building or structure that makes it uninhabitable for humans or animals or constitutes a health hazard to any human or animal inhabitants.
10. **Vehicle:** Any automobile, truck, tractor or motorcycle that, as originally built contained an engine, regardless of whether it contains an engine at any other time.

11. **Waste:** Includes the following:

- i. **Demolition and construction waste** means waste lumber, masonry, concrete, other building materials and the resultant mixture with soil or other solid waste resulting from construction, remodeling, repair or demolition of buildings, structures, pavements, bridges and similar projects.
- ii. **Industrial waste** means waste normally generated by industrial and manufacturing operations which may include metal, plastic or similar materials produced by commercial operations.
- iii. **Residential bulk waste** means items of waste normally produced by persons in their dwellings or on their dwelling premises and includes plumbing fixtures, play equipment, yard appliances, and equipment.

12. **Zoning Compliance Committee (Committee):** A group of County employees made up of one member from each of the following departments: Road & Bridge, Health, Planning & Zoning, Sheriff's Office and Emergency Management. This group shall hear appeals of decisions relating to the administration and enforcement of Article XIII.

Section 13.06. Unlawful Acts. On any land as described in Sec. 13.04, it shall be unlawful for any person in charge of or in possession of any property to cause or allow either 1) a nuisance (Section 13.06.01) or 2) a dangerous, unsafe or unsanitary structure (13.06.02) to be maintained or continued thereon.

Section 13.06.01. Nuisance. Nuisance means any of the following conditions existing by any means on land in unincorporated areas of Saline County, Kansas as defined above that can be detected by an adjacent property owner in the manner(s) described:

1. Accumulation of garbage, refuse, trash or waste which is discernible from adjacent roadways or properties or which exceeds a total size of 500 cubic feet;
2. Any un-maintained weeds, grasses or vegetation which matures to a size greater than 18 inches. (This definition shall not include land used for agricultural purposes, land enrolled in the Conservation Reserve Program, or well-maintained, landscaping materials that reach a mature height of greater than 18 inches);
3. Accumulation of brush, limbs, tree trunks or stumps, shrubs, or plants which are dead, diseased or infested and which is discernible from adjacent roadways or properties or which exceeds a total size of 500 cubic feet (this definition does not include material that will be utilized as firewood);
4. Any non-agricultural condition which gives rise to the emission or generation of strong odors and stenches (including strong-smelling or infested compost heaps) that can be detected from an adjacent property;
5. Any building, structure or other place or location where activity in violation of local, state or federal law is conducted, performed or maintained and which has been documented as occurring more than three times in a three month period by either the Sheriff's Office or the administrative agency;
6. Non-agricultural activities that result in excessive noise (interferes with normal activities for extended periods of time inside residential structures on adjacent properties), cause annoyance to neighboring residents (is evident between the hours of 10:00 p.m. and 6:00 a.m. Sundays through Thursdays and between the hours of 12:01 a.m. and 7:00 a.m. Fridays and Saturdays) and interfere with the reasonable use and enjoyment of the premises occupied by such residents. (This definition shall not include common residential activities, nor shall it include activities associated with permitted uses in zoning districts);

7. Inoperable Vehicles.

- A) RA, RS-1, RS-2 and RS-3 Zoning Districts. It shall be unlawful to keep or store upon any premises in a residentially-zoned district for more than fourteen (14) days any inoperable vehicle unless said vehicle is located within an enclosed building, or screened from any adjacent residence or public right of way by an opaque screening fence or existing year-round vegetative barrier. (Delete 12.07.02)
- B) AG Zoning District. It shall be unlawful to keep and store non-agriculturally related junk and debris, or more than one (1) inoperable vehicle that does not have a farm title, upon any premises for more than fourteen (14) days, unless said vehicles are located within an enclosed building, or screened from any public road or residence by an opaque screening fence or existing vegetative barrier. (Delete 12.07.02a)
- C) All vehicles stored on a property must have either:
 - i. Motor vehicle title, current motor vehicle license and insurance, or
 - ii. Non-highway vehicle title and be declared on the personal property tax rolls of the owner thereof.
- D) Any one of the following conditions shall require proof that a vehicle is operable:
 - i. Absence of a current registration plate on the vehicle.
 - ii. Placement of the vehicle or parts thereof upon jacks, blocks, or other supports.
 - iii. Absence of one or more parts of the vehicle necessary for lawful operation of the vehicle upon a street or highway.
 - iv. Vegetative growth other than a maintained lawn or yard under or around the vehicle.
- E) Exceptions. The provisions of this section shall not apply to the following:
 - i. No more than two personal interest vehicles may be stored in an outside location and covered with a car cover. Personal interest vehicles may not be located within the required front yard or required side yard.

Section 13.06.02. Dangerous, Unsafe or Unsanitary Structures: All buildings or structures which have any of the following defects shall be deemed “dangerous and unsafe buildings” provided that such conditions or defects exist to the extent that the life, property or safety of the public or the building’s occupants is endangered.

1. Whenever a building or structure, or any portion thereof, because of dilapidation, deterioration, decay, vandalism, or faulty construction or the removal, movement or instability of any part of the ground necessary for the purpose of supporting such building or the deterioration, decay or inadequacy of its foundation or any other cause is likely to partially or completely collapse.
2. Whenever any portion or member or appurtenances thereof (i.e., porch, chimney, signs) is likely to fail or to become detached or dislodged or to collapse.
3. Whenever a building is infested with rodents or insects or is left unsecured to allow entry of animals, humans or the natural elements such as rain, hail and snow.
4. Whenever a building or structure, because of decay, damage, faulty construction or arrangement, trash, inadequate maintenance, waste, garbage, inadequate light, air ventilation or sanitation facilities or otherwise is determined to be unsafe, unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.

5. Whenever, for any reason, a building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used.
6. Whenever work on partially-completed or partially-demolished buildings or structures is abandoned for six months or more.

Section 13.07. Notices and Orders.

Section 13.07.01. Inquiry. The Zoning Administrator may make an inquiry and inspection when he/she observes conditions which appear to constitute a nuisance or dangerous, unsafe or unsanitary structure as defined above, or upon receipt of a complaint in writing describing the existence of such condition, or is informed by the Saline County Health Department, Appraiser's Office, Road & Bridge Department, Sheriff's Office or Rural Fire District that a nuisance or dangerous, unsafe or unsanitary structure may exist.

Section 13.07.02. Declaration of Violation. Any property which has any of the conditions described in Section 13.06.01 and 13.06.02 is hereby declared to be a violation, is prohibited as unlawful, and shall be abated according to provisions of this article. The Zoning Administrator shall inspect all property to determine if a nuisance or a dangerous, unsafe or unsanitary structure is in evidence.

Section 13.07.03 Notice and Order. Any person found by the Zoning Administrator to be in violation of this resolution shall be served a notice of such violation. The notice shall be served by registered mail, postage prepaid, return receipt requested. If the owner or his/her agent in charge of the property does not accept the registered letter, the notice will be personally served by a law enforcement officer unless the owner cannot be located after diligent effort. The notice and order shall contain:

1. An order to abate the nuisance or dangerous structure within a reasonable time frame or to request a hearing within a stated time.
2. An address, parcel identification number and/or legal description sufficient for identification of the premises upon which the nuisance and/or dangerous structure is located.
3. A brief statement and concise description of the conditions found.
4. A statement of the action required to be taken (cease and desist, remove, screen, vacate, secure, maintain, repair and/or demolish) within a time frame as follows:
 - A) He/she shall have at least seven (7) but no more than 90 (ninety) days from the date of serving of the notice to abate the condition(s) in violation of this Resolution; or
 - B) He/she shall have ten (10) days from the date of serving of the notice to request a hearing before the Zoning Compliance Committee (Committee). Appeals before the Zoning Compliance Committee shall follow the procedure outlined in Section 13.07.05 of this resolution.
5. A statement that failure to abate the condition(s) or to request a hearing within the time allowed will result in fines, penalties, and possible seizure of the property and abatement of the condition(s) by Saline County according to K.S.A. _____.

Section 13.07.04. Vacation and Demolition of Dangerous, Unsafe or Unsanitary Structure. The following standards shall be followed by the Zoning Administrator in ordering the vacation or demolition of any dangerous structure.

1. Any structure declared dangerous or unsafe under this code shall be made to comply with one of the following:
 - A) The building shall be demolished; or
 - B) If a dangerous or unsafe structure does not constitute an immediate danger to the life, limb, property or safety of the public, it may be vacated, secured and maintained.
2. Any structure declared unsanitary under this code shall be made to comply with the following:
 - A) An unsanitary building may be vacated, secured and maintained after it has been restored to a sanitary condition.
 - B) If an unsanitary structure constitutes an immediate danger to the life, limb, property or safety of the public, it shall 1) be vacated and secured and then 2) either be restored to a sanitary condition and maintained or demolished.
3. Every notice to vacate, in addition to being served as provided in Section 13.07.03, shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building
or to remove or deface this notice.

Zoning Administrator of Saline County, Kansas.

Section 13.07.05. Appeal Hearing. If an appeal hearing is requested within the ten (10) day period as provided above, such request shall be made in writing to the Zoning Administrator. Failure to make a timely request for an appeal hearing shall constitute a waiver of the property owner's right to contest the findings of the Zoning Administrator before the Zoning Violation Committee (see Sec. 13.05[12]).

An appeal hearing shall be held by the Committee within ten (10) days from receipt of a request thereof, and the property owner shall be advised by the Zoning Administrator of the time and place of the hearing at least three (3) days in advance thereof. At any such hearing, the property owner may be represented by counsel, and the property owner and the County may introduce such witnesses and evidence as is deemed necessary and proper by the Committee. The hearing need not be conducted according to formal rules of evidence. Upon conclusion of the hearing, the Committee shall record its determination of the matter.

Any person, official or governmental agency dissatisfied with any order or determination of the Committee may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the Committee.

Section 13.07.06. Abatement. If a person to whom a notice has been sent pursuant to Section 13.07.03 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Committee within the specified time period, the Zoning Administrator or his/her legal representative may present a resolution to the County Commission for adoption authorizing any agent of the County to abate the condition(s) causing the violation once the resolution has been adopted and served to the property owner. The resolution shall further provide that all fines and costs incurred by the County shall be charged against the parcel of ground on which the violation is located. A copy

of the resolution shall be served upon the owner of the property in violation in one of the following ways:

1. Personal service upon the property owner;
2. Service by certified mail, postage prepaid, return receipt requested; or
3. In the event the whereabouts of such person(s) are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the County Clerk, and the serving of the resolution shall be made by publishing the same once each week on the same day of the week twice in the official county newspaper and by posting a copy of the resolution on the premises where such condition(s) exists.

Section 13.07.07. Disposition of Property. The Zoning Administrator is authorized to abate the conditions causing a violation, as provided in Section 13.07.06 of this Article; it shall be the County's position that items abandoned and/or unsecured at this point in the process have no practical value. It will be at the County's discretion to determine if an abandoned item has any value and requires storage. In so doing, the following procedures shall be observed:

1. Items confiscated which have no practical value to the person in violation shall be disposed of by the County;
2. Items confiscated which might be of some value shall be placed in storage by the County.

The persons in violation shall be informed by certified mail, postage prepaid, return receipt requested, of the disposition or storage of any items confiscated. In the case of items stored, the person in violation shall be further informed that such items shall be stored for a period of thirty (30) days, and further that those items may be claimed by said person upon payment to the County for expenses incurred, as provided in Section 13.07.08 of this Article. If the items are not claimed within the thirty (30) day period, then the County may sell the items and deduct its expenses, returning the amount in excess of expenses, if any, to the person. If the County removes and abates from property, other than public property or property open to use by the public, a motor vehicle determined to be a nuisance, the disposition of such vehicle shall be in compliance with K.S.A. 12-1617e(e).

Section 13.07.08. Costs Assessed.

It shall be the property owner's responsibility to ensure that no property becomes a public nuisance and it shall be an offense against the property owner if a property is determined to be a public nuisance. The fine for a public nuisance shall be \$5,000.00; additional fines of \$500.00 per day shall also be assessed for every day a nuisance remains in effect after the deadline for abating the nuisance has passed. Failure to pay fines shall result in liens against the property and seizure of the property by the County for abatement and/or payment.

Section 13.08. Validity. This act shall take precedence over any and all regulations that may conflict herewith and any part of any resolution that conflicts herewith is hereby repealed.

Section 13.09. Severability. If a court of competent jurisdiction declares any section, subsection, paragraph, sentence, clause or phrase of this code to be invalid or unconstitutional, the remaining portion of this resolution shall remain in full force and effect; and to this end, the provisions of this resolution are hereby declared to be severable and shall be presumed to have been adopted knowing that the part of the section declared invalid would be so declared.

Section 13.10. Waiver of requirements. In existing and unusual cases where compliance with the requirements of any section of this chapter is not feasible, the Zoning Administrator shall have the authority to waive in writing the requirement, provided the administrator is furnished with reliable data to show that such waiver does not and will not endanger or compromise the environment or public health.