

**CITY OF FAIRWAY, KANSAS  
ORDINANCE NO. 1739**

**AN ORDINANCE AMENDING THE FAIRWAY CITY CODE  
PERTAINING TO NUISANCES; AMENDING AND REPEALING  
CHAPTER 6, ARTICLE 2 OF THE FAIRWAY CITY CODE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FAIRWAY,  
KANSAS:**

**SECTION 1.** Existing Chapter 6, Article 2 of the Fairway City Code is hereby amended to read as follows:

**ARTICLE II. - NUISANCES**

**Sec. 6-19. - Definitions.**

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

*Inoperable* means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed.

*Motor vehicle* means, without limitation, any vehicle or equipment which as originally built contained an engine, regardless of whether it contains an engine at any other time.

*Nuisance* means an annoyance, and any use of property which endangers the life or health, violates the laws of decency, unreasonably pollutes the air with foul noxious odors or smoke, or obstructs the reasonable and comfortable use and enjoyment of the property of another or of the public.

*Vehicle and/or equipment* includes, without limitation, any automobile, van, recreational vehicle, truck, tractor, boat, trailer or motorcycle.

**Sec. 6-20. - General nuisances.**

In addition to those nuisances otherwise specifically prohibited by ordinance, it shall be unlawful for any person to cause or permit to exist any nuisance.

**Sec. 6-21. - Deposit of certain substances endangering health.**

No person shall dispose of any substance or material which is or may be a menace to public health or welfare or a danger to the health or welfare of the inhabitants of the City, or of any neighborhood, family or resident thereof.

**Sec. 6-22. - Inoperative vehicles and/or equipment.**

(a) Generally. The City Council finds that junked, wrecked, dismantled, inoperative or abandoned vehicles and/or equipment affect the health, safety and general welfare of citizens of the City in that they:

- (1) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
- (2) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
- (3) Are a ready source of fire and explosion;
- (4) Encourage pilfering and theft;
- (5) Constitute a blighting influence upon the area in which they are located;
- (6) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(b) Motor vehicle Nuisances unlawful; defined; exceptions. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the City.

(1) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of a City ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one (1) of the following conditions shall raise the presumption that a motor vehicle is junked, wrecked or inoperable:

- a. Absence of a current registration plate upon the vehicle;
- b. Placement of the vehicle or parts thereof upon jacks, blocks or other supports;
- c. Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon a street or highway.

(2) The provisions of this Subsection (b) shall not apply to:

- a. Any motor vehicle which is enclosed in a garage or other building;
- b. To the parking or storage of a vehicle inoperable for a period of thirty (30) consecutive days or less; or
- c. To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

**Sec. 6-23. - Selling motor vehicles; premises, residential or nonbusiness.**

No person shall offer, show or display for sale a motor vehicle on property zoned business. No person shall offer, show or display for sale a motor vehicle on property zoned residential unless the offer, showing or display is occasional. The term "occasional" is defined as an offer, showing or display of a motor vehicle from residential property of not more than two (2) motor vehicles in any twelve (12) month period and not more than one (1) motor vehicle at any one (1) time.

**Sec. 6-24. – Outside lighting.**

The placement of exterior lighting, including security lighting, on any structure or in any location on any lot in the City so that it creates a safety hazard to drivers on the City's streets or a detriment to the health, safety or general welfare of neighboring residents shall be prohibited. Any light or combination of lights that cast light on a public street shall not exceed one (1) footcandle (meter reading) as measured from the centerline of the street. Any light or combination of lights that cast light on an adjacent residence shall not exceed one-half (0.5) footcandle (meter reading) as measured from the property line. These regulations do not apply to security lights activated by a motion detector with a timer which ensures that the light will go off within ten (10) minutes after the motion detector is triggered provided that such light does not create a safety hazard.

**Sec. 6-25. - Nuisance procedures**

(a) *Complaints, inquiry and inspection.*

(1) Any police officer or Codes Administrator shall make inquiry and inspection of premises:

a. Upon receiving a complaint or complaints in writing signed by two (2) or more persons stating that a nuisance exists and describing the same and where located; or

b. When informed that a nuisance may exist by the Chief of Police or by the Board of Health or Fire Chief.

(2) The police officer or Codes Administrator may make such inquiry and inspection when he observes conditions which appear to constitute a nuisance.

(3) Upon making an inquiry and inspection, the police officer shall make a written report of findings.

(b) *Right of entry.* It shall be a violation of this section to deny any police officer the right of access and entry upon private property at any reasonable time for purpose of making inquiry and inspection to determine if a nuisance exists.

(c) *Notice.* Any person, corporation, partnership or association found by a police officer to be in violation of this section shall be served a notice of such violation. The notice shall be

served by registered mail, postage prepaid, return receipt requested; provided that if the owner or his agent in charge of the property is a resident of the County, the notice shall be personally served by a law enforcement officer.

(d) *Same; contents.* The notice shall state the conditions which are in violation of this section. The notice shall also inform the person, corporation, partnership or association that:

(1) He shall have ten (10) days from date of serving the notice to abate the conditions in violation of this article; or

(2) He shall have ten (10) days from date of serving the notice to request a hearing before the Governing Body, as provided in Subsection (j) of this section;

(3) Failure to abate the conditions or to request a hearing within the time allowed may result in prosecution as provided in this section and/or abatement of the conditions by the City as provided in this section.

(e) *Failure to comply.* Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing, the police officer may file a complaint in the Municipal Court of the City against such person, corporation, partnership or association.

(f) *Abatement.* In addition to, or as an alternative to prosecution as provided in this section, the police officer may seek to remedy violations of this section in the following manner. If a person to whom notice has been sent pursuant to this section has neither alleviated the conditions causing the alleged violation nor requested a hearing before the City Council within the time periods allowed in this section, the police officer may present a resolution to the Governing Body for adoption authorizing the police officer or other agents of the City to abate the conditions causing the violation at the end of ten (10) days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the lot or parcel of ground on which the nuisance was located as provided in this section. A copy of the resolution shall be served upon the person in violation in one (1) of the following ways:

(1) Personal service upon the person in violation;

(2) Service by registered mail, postage prepaid, return receipt requested; or

(3) In the event the whereabouts of such person is unknown and same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the police officer and filed with the City Clerk, and the serving of the resolution shall be made by publishing the same once a week for two (2) consecutive weeks in the official City newspaper and by posting a copy of the resolution on the premises where such condition exists.

(g) *Hearing.* If a hearing is requested within the ten (10) day period as provided in this section, such request shall be made in writing to the City Council. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the police

officer before the City Council. The hearing shall be held by the City Council as soon as possible after the filing of the request therefor, and the person shall be advised by the City of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, the person may be represented by counsel, and the person in the City may introduce such witnesses and evidence as is deemed necessary and proper by the City Council. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the City Council shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in this section.

(h) *Costs assessed.* If the City abates the nuisance pursuant to the provisions of this section, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The City Clerk shall, at the time of certifying other taxes to the County Clerk, certify the costs as provided in this section. The County Clerk shall extend the same on the tax roll and it shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid.

**Sec. 6-26. - Penalty.**

Any person, corporation, partnership or association violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars (\$500.00). Each day on which violation occurs or continues after notice has been served shall constitute an additional or separate offense.

**SECTION 2.** Existing Chapter 6, Article 2 of the Fairway City Code is hereby repealed.

**SECTION 3.** This Ordinance No. \_\_\_\_\_ shall become effective upon adoption and publication in the official City newspaper.

*[Remainder of page intentionally left blank; signatures follow.]*

**PASSED** by the City Council the 14th day of June, 2021. **APPROVED** by the Mayor.

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Melanie Hepperly, Mayor

ATTEST:

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Kim Young, City Clerk

APPROVED AS TO FORM:



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Richard Cook, City Attorney