ORDINANCE NO. 222

AN ORDINANCE ESTABLISHING A PROCEDURE FOR ABATEMENT OF NUISANCES; PROVIDING FOR NOTICE AND A HEARING; AUTHORIZING THE CITY TO ABATE SUCH NUISANCES AND ASSESS THE COSTS OF SUCH AGAINST THE PROPERTY UPON WHICH THE NUISANCE IS LOCATED UNDER CERTAIN CONDITIONS; PROVIDING FOR APPOINTMENT OF A PUBLIC OFFICER AND PRESCRIBING THE DUTIES OF SUCH OFFICER; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; AND REPEALING ORDINANCE NO. 196.

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

ARTICLE I. ENVIRONMENTAL CODE

Section 1. LEGISLATIVE FINDING OF FACT.

The governing body has found that there exists within the city unsightly and hazardous conditions due to: dilapidation, deterioration, or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accident or other calamity; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided.

Section 2. PURPOSE.

The purpose of this Ordinance is to protect, preserve, upgrade and regulate the environmental quality of residential, commercial and industrial neighborhoods of the city of Basehor by outlawing conditions which are injurious to the health, safety, welfare and aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof.

Section 3. RULES OF CONSTRUCTION.

For the purpose of this Article, the following rules of construction shall apply:

(a) Any part thereof - whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof".

(b) Gender - words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.

(c) Number - words of number shall be construed to mean singular or plural, as may be applicable.

(d) Tense - words of tense shall be construed to mean present or future, as may be applicable.

(e) Shall - the word shall is mandatory and not permissive.

Section 4. DEFINITIONS.

The words and phrases listed below when used in this Article shall have the following meanings:

(a) Abandoned motor vehicle shall mean 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 the Code; or incapable of moving under its own powers; or in a junked or wrecked condition.

(b) Accessory structure shall mean a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns or outbuildings.

(c) Commercial or industrial shall mean any property used or intended to be used primarily for other than residential purposes.

(d) Dangerous or hazardous object shall mean glass, bottle glass, nails, tacks, wire, cans or other substance or object likely to injure any person, animal or vehicle.

(e) Dangerous or hazardous structure shall mean any structure which is unsafe because of design or characterized by dilapidation, deterioration, or disrepair, or which constitutes a fire hazard.

(f) Dilapidation, deterioration, or disrepair shall mean 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.

(g) Exterior shall mean those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(h) Garbage shall mean without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of food stuffs.

(i) Governing body shall mean the city council of the City of Basehor, Kansas.

(j) Person shall mean any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other 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.

(k) Premises shall mean any lot, plot, or parcel of land, including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structure thereon.

(l) Refuse shall mean garbage and trash.

(m) Residential shall mean property used or intended to be used primarily for human habitation.

(n) Structure shall mean anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, including any appurtenances belonging thereto.

(o) Trash shall mean combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(p) Weathered shall mean deterioration caused by exposure to the elements.

(q) Yard shall mean the area of the premises not occupied by any structure.

Section 5. PUBLIC OFFICER.

The Governing Body may designate a public officer to be charged with the administration and enforcement of this Article provided however any police officer of the city of Basehor shall have the authority to administer and enforce this Article and shall automatically be deemed a public officer as used in this Article.

Section 6. ENFORCEMENT STANDARDS.

No person shall be found in violation of this Article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such finding must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under Section 7 of this Article, but shall not include conditions which are not readily visible from any public place or from any surrounding private property.

Section 7. UNLAWFUL ACTS.

It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk, or refuse;

(2) abandoned motor vehicles; or

(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property;

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

Section 8. NOTICE.

Any person found by the public officer to be in violation of Section 7 shall be sent a notice of such violation by the public officer. The notice shall be sent by certified mail, postage prepaid, return receipt requested. The notice shall state:

(a) The condition which has caused the violation of this article; and

(b) That the person in violation shall have:

(1) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;

(2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation;

or in the alternative to subsections (1) and (2) above,

(3) 15 days from the date of the mailing of the notice to request, as provided in Section 11 a hearing before the governing body on the matter; and

(c) That failure to alleviate the condition or to request a hearing may result in prosecution under Section 9 and/or abatement of the conditions by the city according to Section 10 with the costs assessed against the property under Section 13.

Section 9. PENALTY.

The public officer may file a complaint in the municipal court against any person found to be in violation of Section 7 provided however, that such person shall first have been sent a notice as provided in Section 8 and that the person has neither alleviated the condition causing the alleged violation nor requested a hearing before the Governing Body within the time period specified in Section 8. Upon such complaint in the municipal court, any person found to be in violation of Section 7 shall upon conviction be punished by a fine of not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00) or by imprisonment, for not more than thirty (30) days, or by both such fine and imprisonment for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist.

Section 10. ABATEMENT.

In addition to, or as an alternative to prosecution as provided in Section 9, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to Section 8 has neither alleviated the condition causing the alleged violation or request a hearing before the Governing Body within the time periods specified in Section 8, the public officer may present a resolution to the Governing Body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of twenty (20) days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in Section 13.

A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) personal service upon the person in violation;

(b) service by certified mail, postage prepaid, return receipt requested; or

(c) in the event the whereabouts of such person 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 city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

Section 11. HEARING BEFORE GOVERNING BODY.

If a hearing is requested within the fifteen (15) day period as provided in Section 8, such request shall be made in writing to the Governing Body. Failure to make a timely request for a hearing shall constitute a waiver of the person's rights to contest the findings of the public officer before the Governing Body. The hearing shall be held by the Governing Body 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 and the city may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Governing Body 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 Section 10.

Section 12. APPEALS.

Any person affected by any determination of the Governing Body under Sections 10 or 11 may appeal such determination in the manner provided by K.S.A. 60-2101.

Section 13. COSTS ASSESSED.

If the city abates the conditions in violation of this Article, pursuant to Section 10, the costs of abatement shall be charged against the lot or parcel of ground on which the conditions were 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.

Section 14. CONSTRUCTION.

Nothing in this article shall be construed to abrogate or impair the powers or the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law, or by Ordinance.

ARTICLE II. HEALTH NUISANCES

Section 15. NUISANCES UNLAWFUL; DEFINED

It shall be unlawful for any person to maintain or permit any nuisance within the city as defined without limitation as follows:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed within 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water;

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.

Section 16. COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police of the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

Section 17. RIGHT OF ENTRY.

It shall be a violation of this code to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

Section 18. NOTICE.

Any person, corporation, partnership or association found by the public officer to be in violation of Section 15 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Leavenworth County, Kansas, the notice shall be personally served by the public officer or a law enforcement office. (K.S.A. 12-1617e)

Section 19. SAME; CONTENTS.

The notice shall state the condition(s) which is (are) in violation of Section 15. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 15; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 22;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 20 and/or abatement of the condition(s) by the city as provided in Section 21.

Section 20. FAILURE TO COMPLY; PENALTY.

Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 15, be fined in an amount not to exceed $100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

Section 21. ABATEMENT.

In addition to, or as an alternative to prosecution as provided in Section 20, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to Section 18 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 19, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 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 Section 23. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Service by restricted mail, postage prepaid, return receipt requested; or

(c) In the event the whereabouts of such person are unknown 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 city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

Section 22. HEARING.

If a hearing is requested within the 10 day period as provided in Section 19, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body 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 days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body 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 Section 21.

Section 23. COSTS ASSESSED.

If the city abates the nuisance pursuant to Section 21, the costs 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.

ARTICLE III. JUNKED, ABANDONED VEHICLES

Section 24. FINDINGS OF THE GOVERNING BODY REGARDING JUNKED, ABANDONED VEHICLES.

The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

(a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;

(c) Are a ready source of fire and explosion;

(d) Encourage pilfering and theft;

(e) Constitute a blighting influence upon the area in which they are located;

(f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

Section 25. DEFINITIONS.

As used in this Article, unless the context clearly indicates otherwise:

(a) 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;

(b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

Section 26. PRESUMPTIONS.

Any one of the following conditions shall raise the presumption that a vehicle is 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 street or highway.

Section 27. UNLAWFUL STORAGE.

Except as provided in Sections 28, 29, it shall be unlawful for any person or agent, either as owner, lessee, tenant or occupant of any land within the city to park, store or deposit, or permit to be parked, stored, or deposited thereon, an inoperable vehicle unless the vehicle is enclosed in a garage or other building.

Section 28. TEMPORARILY DISABLED VEHICLE.

The provisions of Section 27 shall not apply to the parking or storage of a vehicle inoperable for a period of thirty (30) consecutive days or less.

Section 29. SALVAGE DEALERS; SCREENING.

The provisions of Section 27 shall not apply 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 Section shall be construed as to authorize the maintenance of a public nuisance.

Section 30. ADMINISTRATIVE PROCEDURE.

Whenever an informal complaint is made to the city clerk or notice is given to such officer of the existence of an apparent violation of this article, he or she shall within seven (7) days thereafter cause to be served upon the person in possession or the owner of the real property upon which such inoperable vehicle is located a written notice. Such notice shall inform such

person of the violation and direct that he or she take action within seven (7) days after receipt of such notice to comply with the provisions of this article or prosecution will be commenced for violation thereof.

In the event such person fails to comply with the provisions of this Article within such time, the city clerk shall notify the city attorney who shall commence prosecution under this article.

Section 31. ABANDONED VEHICLES; AUTHORITY TO REMOVE.

(a) Whenever any person shall abandon and leave a motor vehicle on a highway or other property open to use by the public for a period of time in excess of forty-eight (48) hours, the city may remove the motor vehicle from such highway or other property and place or store the same in a safe and convenient place. If such motor vehicle has displayed thereon a registration plate issued by the Division of Vehicles and has been registered with said division, the city or its designated agent shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state, stating that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by the city of the same within fifteen (15) days from the date of the mailing of the notice, that the same will be sold at public auction to the highest bidder for cash.

(b) The city shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner of the vehicle, and shall inquire by mail of the office of Register of Deeds of the county in which the title shows the owner resides, if registered in the state, as to whether there are any lienholders of record.

Section 32. SAME; NOTICE.

(a) After fifteen (15) days from the date of mailing notice, the city or its designated agent shall publish a notice for two (2) consecutive weeks in the official city newspaper where such

motor vehicle was abandoned and left. The notice shall describe the motor vehicle by name of maker, model, serial number and owner, if known, and state that the same has been impounded by the city and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the same within ten (10) days from the date of the second publication of the notice and pay the removal and storage charges, and the publication costs incurred by the city.

(b) If such motor vehicle does not display a registration plate issued by the Division of Vehicles and is not registered with said division, the city or its designated agent, after thirty (30) days from the date of impoundment, may publish a notice in the official city newspaper, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state the same has been impounded by the city and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the same within ten (10) days from the date of the second publication of the notice and pay the removal and storage charges incurred by the city.

Section 33. SAME; SOLD AT AUCTION.

(a) Whenever the city or its designated agent has complied with the foregoing provisions of this Article with respect to any such abandoned motor vehicle and the owner thereof does not claim the same within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the city on such motor vehicle, the city or its designated agent may sell the motor vehicle at public auction to the highest bidder for cash.

(b) After any sale pursuant to this Section, the city or its designated agent may file proof thereof with the Division of Vehicles. Thereupon, said division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of motor vehicles pursuant to this Article, after payment of the expenses of the impoundment and sale, shall be paid into the fund of the city which is used by it for the construction or maintenance of highways.

Section 34. SAME; ON PRIVATE PROPERTY.

(a) Any person who shall abandon and leave any vehicle on any real property, other than public property or property open to use by the public, within the city, which is not owned or leased by such person or by the owner or lessee of such vehicle, shall be guilty of criminal trespass. Upon request of the owner or occupant of such real property, the city or its designated agent may remove and dispose of such vehicle in the manner provided in this Article except that the provisions that a motor vehicle be abandoned for a period of time in excess of forty-eight (48) hours prior to its removal shall not be applicable to abandoned vehicles which are subject to the provisions of this Section.

(b) Any person removing such vehicle from the real property at the request of the city shall have a possessory lien on such vehicle for the costs incurred in removing, towing and storing such vehicle.

Section 35. ENFORCING OFFICER.

The chief of police or his or her duly authorized agent is hereby designated as the enforcing officer of the city and charged with the administration of the provisions of this Article.

ARTICLE IV. WEEDS

Section 36. 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.

Section 37. DEFINITIONS.

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 twelve (12) inches in height.

Section 38. PUBLIC OFFICER; NOTICE TO REMOVE.

The Chief of Police or any police officer shall be designated as the public officer to be charged with the administration and enforcement of this Article. The public officer or an authorized assistant shall notify the owner or his or her agent in charge of any premises in the city upon which weeds exist in violation of this article, by restricted mail or by personal service. Such notice shall include the following:

(a) That the owner or his or her agent in charge of the property is in violation of the city weed control law.

(b) That the owner or his or her agent in charge of the property, is ordered to cut the weeds within ten (10) days of the receipt of notice.

(c) That the owner or his or her agent in charge of the property may request a hearing before the governing body or its designated representative within five (5) days of the receipt of notice.

(d) That if the owner or his or her 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 cost, against the owner or his or her agent in charge of the property.

(e) That the owner or his or her 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.

(f) That the public officer should be contacted if there are any questions regarding the order.

If the owner or his or her agent in charge of the property cannot be served in the above manner, service may be made by publishing one (1) notice in the official city newspaper. If notice is made by publication, the owner or his or her agent in charge of the property will be ordered to cut the weeds within ten (10) days from the date of publication.

Section 39. ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of ten (10) days after receipt or publication or other service of the notice required by Section 38, and in the event that the owner or his or her agent in charge of the premises shall neglect or fail to comply with the requirements of Section 36, 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.

(b) The public officer or an assistant shall give notice to the owner or his or her agent in charge of such property 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.

(c) If the costs 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. K.S.A. 12-1617f.

Section 40. 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 Article.

Section 41. 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 a code violation.

Section 42. NOXIOUS WEEDS.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating 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). K.S.A. 2-1314.

Section 43. EFFECTIVE DATE.

This Ordinance shall take effect upon enactment by the City Council of the City of Basehor, Kansas and its publication in the official city newspaper: The Basehor Sentinel.

Passed by the City Council of the City of Basehor, Kansas this _____ day of _____, 1989.

Approved by the Mayor this 2nd day of January, 1989.

Mayor Anna M. Landauer
ANNA MARY LANDAUER, Mayor

ATTEST:

Mary E. Moore
City Clerk