

**ORDINANCE NO. 1362**  
**AN ORDINANCE AMENDING THE CITY OF WEIR ENVIRONMENT CODE,  
MOTOR VEHICLE NUISANCES, AND WEEDS NUISANCES**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF  
WEIR, KANSAS.**

SECTION 1. TITLE. This ordinance shall be known as the "NEW ENVIRONMENTAL CODE."

SECTION 2. LEGISLATIVE FINDING OF FACT. The Weir City Council has found that there exist within the city unsightly and hazardous conditions due to:

- a. Dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors;
- b. Accumulations increasing the hazards of accidents or other calamities;
- c. Structural defects;
- d. Uncleanliness;
- e. Weeds;
- f. Unsightly store or parked material, equipment, supplies, and machinery, or parts thereof; and
- g. Abandoned vehicles.

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 Weir City Council 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 3. PURPOSE. The purpose of this Ordinance is to protect, preserve, upgrade and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhood and to provide for the administration and enforcement thereof.

SECTION 4 RULES OF CONSTRUCTION. For the purpose of this Ordinance, 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 5. DEFINITIONS. The words and phrases listed below when used in this Ordinance shall have the following meanings:

a. Abandoned Motor Vehicle – 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 Ordinance; or incapable of moving under its own power; or in a junked or wrecked condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked, or inoperable;

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

The provisions of this section shall not apply to:

1. Any motor vehicle which is enclosed in a garage or other building;
2. To the parking or storage of a vehicle inoperable for a period of thirty (30) days or less; or
3. To any person conducting a business in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen vehicles from the view of the public and to prohibit ready access to stored vehicles by children.

b. Accessory Structure – 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 – used or intended to be used primarily for other than residential purposes.

d. 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.

e. Exterior – 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.

f. Garbage – without limitation, any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

g. Person – 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.

h. Premises – any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, lot or parcel of land without any structures thereon.

h. Refuse – garbage and trash.

i. Residential – used or intended to be used primarily for human habitation.

j. Structure – anything construed or erected which requires location on the ground, or is attached to something having a location on the ground including any appurtenances belongings thereto.

k. Trash – 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, vehicle wheels, tires, car or truck bodies, bottles, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

l. Weathered – deterioration caused by exposure to the elements.

m. Weeds – brush and woody vines; weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property; weeds which bear or may bear seeds of a downy or wingy nature; weeds which are located in an area which harbors rats, insects, animals, reptiles, or any creature which constitutes a menace to health, public safety or welfare; and 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 12 inches in height.

- n. Yard – the area of the premises not occupied by any structure.

SECTION 6. DUTY TO REMOVE GARBAGE, REFUSE, TRASH AND WEEDS. The owner and occupant or person in charge of any lot or piece of land and the parking in front thereof, shall keep said lot or piece of land free and clear of garbage, refuse, trash, and weeds so as not to interfere in any manner with the health, convenience or pleasure of persons living near or adjacent to such premises or of persons using the streets, alleys or sidewalks, and shall not permit the garbage, refuse, trash and weeds there from to be scattered upon the same or adjacent property. Said person shall not permit weeds to remain upon said premises or any area between the property lines of said premises and the center line of an adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights of way, and all other areas, public or private.

SECTION 7. VIOLATIONS INVOLVING ABANDONED VEHICLES AND EXTERIOR CONDITIONS TO YARD AND EXTERIOR STRUCTURES. 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;
3. Furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property; and
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. PUBLIC OFFICER The Mayor shall designate a Public Officer to be charged with the administration and enforcement of this ordinance, or any police officer of the city may enforce this ordinance.

SECTION 9. DENIAL OF ENTRY. It shall be unlawful for any person to deny the public officer, police, or designee access or entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine whether a violation of the Ordinance exists or to abate and terminate such violation.

SECTION 10. NOTICE FOR GARBAGE, REFUSE, TRASH, AND WEEDS. Any person found by the public officer or police officer to be in violation of Section 6 of this Ordinance shall be served a notice of such violation. The notice shall be served on the person by restricted mail, postage prepaid, return receipt requested, or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by certified mail, return receipt requested, to the last known address of the owner. In regards to abandoned vehicles, if the whereabouts of such person is 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 thereafter, the notice shall be served by publishing the same once each week for two consecutive weeks in the official City newspaper and by posting a copy of the notice on the vehicle, if possible.

SECTION 11. SAME, CONTENTS OF NOTICE FOR GARBAGE, REFUSE, TRASH AND WEEDS. The notice shall state the condition(s) which is (are) in violation of Section 6 of this Ordinance. The notice shall also inform the person that:

- a. The person shall have 10 days from the date of serving the notice to abate the conditions in violation of this Ordinance; or
- b. The person shall have 10 days from the date of servicing the notice to request a hearing before the governing body as provided by Section 14;
- c. Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 13 of this Ordinance.

SECTION 12 SAME, CONTENTS OF NOTICE ON VIOLATIONS OTHER THAN GARBAGE, REFUSE, TRASH AND WEEDS. The notice shall state the condition(s) which is (are) in violation of Section 7 of this Ordinance. The notice shall also inform the person that:

- a. The person shall have 15 days from the date of serving the notice to abate the conditions in violation of this Ordinance; or
- b. The person shall have 15 days from the date of serving the notice to request a hearing before the Weir City Council as provided by Section 14;

- c. Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 16 of this Ordinance.

SECTION 13. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the violation of Sections 6 and 7 of this Ordinance or request a hearing, the Public Officer, police officer, or his/her designee may file a complaint in the municipal court of the city against such person. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

Any person who commits a violation of any of the foregoing provisions of this ordinance shall be subject to a fine of not more than Five Hundred Dollars (\$500.00), or up to imprisonment for not more than ninety (90) days, or to both such fine and imprisonment in the discretion of the Municipal Court.

- a. A person violating this Ordinance for the first time shall pay a fine of not less than Fifty Dollars (\$50.00), plus costs.

- b. A person violating this Ordinance for the second time shall pay a fine of not less than One Hundred Dollars (\$100.00), plus costs.

- c. A person violating this Ordinance for the third time shall pay a fine of not less than Two Hundred Dollars (\$200.00), plus costs.

- d. A person violating this Ordinance for the fourth or subsequent time is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment for not more than ninety (90) days, or to both such fine and imprisonment in the discretion of the Court.

SECTION 14. HEARING. If a hearing is requested within the time period as provided in this Ordinance, such request shall be made in writing to the Weir City Council. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the finding of the Chief of Police or his/her designee before the Weir City Council. The hearing shall be held by the Weir City Council body as soon as possible after the filing of the request therefore, 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 Weir City Council. The hearing need not be conducted according to the formal rules of evidence. In regards to violations other than garbage, refuse, trash and weeds, upon conclusion of the hearing, the Weir 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 Section 17. If, prior to the time of the hearing before the Weir City Council, the person has abated and terminate the violation and makes a showing to

the satisfaction of the Weir City Council that no such violation exists, the Weir City Council shall rescind the notice to abate and terminate the violation.

SECTION 15. ABATEMENT. If the person in charge of any lot or piece of land shall fail or neglect or refuse to abate such conditions as set forth in Sections 6 and 7, the city may abate such violation(s) on said lots and pieces of land. The city shall keep an accurate record of the costs of such abatement from each specific lot, piece or parcel, and it shall report the same to city clerk, whereupon the city clerk shall mail a statement of such costs to the last known address of the owner, occupant or person in charge of the property and if such costs are not paid within thirty (30) days from the mailing of such notice, said costs shall be certified and report the same to the county clerk. 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. The Weir City Council shall determine the cost of abating and terminating such violation by motion or resolution, at the time fees and expenses for the subsequent year are determined, with the initial cost to be:

- a. An amount of \$75.00 per hour for the first hour for abating and terminating the violation, with a minimum charge of one hour, plus \$20.00 for each one-quarter hour in excess of one hour;
- b. The cost incurred for dumpster rental and landfill dumping fee; and
- c. An administrative fee of \$50.00

SECTION 17. PUBLICATION NOTICE TO PROPERTY OWNERS. The City Clerk shall, at least once each year during the months of June, July, or August, cause to be published in the official City paper a notice in substantially the following form:

“NOTICE TO PROPERTY OWNERS AND  
PERSONS IN CHARGE OF PROPERTY:

“All property owners and persons in charge or possession of any tract, lot or piece of land in the City of Weir are hereby notified that all weeds and obnoxious vegetation now growing on private property in the City of Weir, must be cut and removed within ten (10) days.

“If the owner or person in charge of any property shall fail or neglect to cut any weeds or obnoxious vegetation growing thereon as herein directed, the City shall proceed to cut such weeds and obnoxious vegetation and shall assess the costs and charges therefore against the respective properties which if not paid, will be certified to the county clerk for collection with other special assessments as provided by law.”

SECTION 18. NOTICE: OTHER THAN GARBAGE, REFUSE, TRASH, AN WEEDS. If a person to whom a notice has been sent has neither alleviated the conditions causing the violation nor requested a hearing before the Weir City Council within the time specified in Section 12, the public officer may set a public hearing and present a

resolution to the Weir City Council for adoption directing the public officer or other agents of the City to abate the conditions causing the violation 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 of parcel of ground on which the violation was located. 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. If the whereabouts of such persons is unknown and the same cannot be ascertained in the exercise of reasonable diligence, and affidavit to that effect shall be made by the public officer and filed with the City Clerk, and thereafter, the resolution shall be served by publishing the same once each week for two consecutive weeks in the official City newspaper and by posting the copy of the resolution on the premises where such conditions exist.

**SECTION 19. DISPOSITION OF VEHICLE.** Any vehicle abandoned on a public highway or upon property open to use by the public or upon private property may, in addition to, or as alternative to any such provision hereof, be disposed of as provided by K.S.A. 8-1102, as amended.

**SECTION 20. NOXIOUS WEEDS.** Nothing in this ordinance shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds. For the purpose of this section, the term "noxious weeds" shall include 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 (*Hoffmannsegia densiflora*), musk (nodding) thistle (*Carduus nutans* L.) and Johnson grass (*Sorghum halepense*).

**SECTION 21. CONSTRUCTION.** Nothing in this ordinance shall be construed to abrogate or impair the powers of 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 ordinance shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance.

**SECTION 22. REPEAL OF CONFLICTING ORDINANCES.** That all ordinances, or parts thereof, in conflict with the terms of this ordinance be, and the same are, hereby repealed. This shall include, but not be limited to, Ordinance 1054, Ordinance 1057, Ordinance 1235, and Sections VI, Article 2 and 7 of Ordinance 1087. This ordinance does not appeal, or amend, Ordinance #1361.

**SECTION 23.** The ordinance shall take effect and be in force from and after its adoption and publication in the official city ordinance.



ADOPTED AND APPROVED by the City Council of the City of Weir, Kansas  
the 25<sup>th</sup> day of August, 2008.

Sandra Stricklin  
Sandra Stricklin, Mayor

ATTEST

Letha J. Harris  
Letha J. Harris  
City Clerk

