

ORDINANCE NO. 833

repealing
Amended by
860, 863

AN ORDINANCE OF THE CITY OF SEDGWICK, HARVEY AND SEDGWICK COUNTIES, RELATING TO THE REMOVAL AND ABATEMENT OF CERTAIN NUISANCES; TO FURTHER REGULATE ITEMS OR DEBRIS ON STREETS OR PUBLIC WAYS; TO ESTABLISH A MAXIMUM HEIGHT ALLOWANCE FOR GRASS, WEEDS, OR OTHER UNSIGHTLY VEGETATION; TO BAN STORING OR LOCATING CERTAIN PERSONAL PROPERTY ON PREMISES WHEN VISIBLE TO THE PUBLIC; TO CLARIFY NOTICE REQUIREMENTS FOR VIOLATION OF THE ORDINANCE; TO ESTABLISH PROCEDURES IN RELATION THERETO AND THE ASSESSMENT OF COSTS THEREFORE; AND EXPRESSLY REPEALING ORDINANCES 584 AS WELL AS ANY AND ALL OTHER ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF SEDGWICK, COUNTIES OF HARVEY AND SEDGWICK KANSAS:

Section 1. Nuisances Unlawful; Defined. It shall be unlawful for any person to maintain or permit any nuisance within the City has defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal, lawn clippings and other lawn or yard debris, 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 vacat 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, at a height of eight (8) inches or more, cultivated or grown for domestic use or to be marketed or for ornamental use;
- (f) Abandoned iceboxes or refrigerators kept on the premises.
- (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 streets, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the City.
- (i) Furniture or household items, not intended for outdoor display or use, stored or located on premises and readily visible to the public.

Section 2. Public Officer. The City of Sedgwick City Council shall designate a public officer or public officers to be charged with the administration and enforcement of this ordinance.

Section 3. Complainant; Inquiry and Inspection. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints orally or in writing by two or more persons stating that a nuisance exists and describing the same and where located. Any such complaint made in writing shall be signed by at least one of the complainants. The public officer may make inquiry and inspection of premises after personal initial observation of a possible nuisance. Finally, the public officer shall make inquiry and inspection of premises, upon being informed that a nuisance may exist by the Chief of Police or 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 4. 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 5. Notice. A person found by the public officer to be in violation of Section 1 shall be served a notice of such violation. The notice shall be served by registered or certified mail, restricted delivery, addressee only, postage prepaid, return receipt requested; unless the owner or his or her agent in charge of the property is a resident of Harvey County or Sedgwick County, in which case the notice shall be personally served by a law enforcement officer.

Section 6. Same; Contents. The notice shall state the condition(s) which is (are) in violation of Section 1. The notice shall also inform the person that:

- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 1; or
- (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body or its designated representative of the matter as provided by Section 9.
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 7 and/or abatement of the condition(s) by the City as provided by Section 8.

Section 7. Failure to Comply, Penalty. Should the person 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 and upon conviction of any violation of provisions of Section 1, 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 addition or separate offense.

Section 8. Abatement. In addition to, or as an alternative to prosecution as proved in Section 6, the public officer may seek to remedy violation of this section in the following manner. If a person to whom a notice has been sent pursuant to section 4 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body or its designated representative within the time periods specified in section 5, 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 9. 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 registered or 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 9. Hearing. If a hearing is requested within the 10-day period as provided in Section 5, such request shall be made in writing to the governing body or its designated representative. 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 or its designated representative. The hearing shall be held by the governing 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 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 or its designated representative. The hearing need be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body or its designated representative shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in Section 7.

Section 10. Costs Assessed. If the City abates the nuisance pursuant to Section 7, 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.

Section 11. Repeal. Ordinance 584 is hereby expressly repealed as well as any and all other and foregoing ordinances or portions thereof in conflict herewith shall be and the same are hereby repealed.

Section 12. Effective Date. This Ordinance shall take effect and be in full force from and after its once publication in the official City newspaper, The Harvey County Independent.

**PASSED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF SEDGWICK,
KANSAS THIS 20th DAY OF October, 2014.**



Rodney Eggleston, Mayor

ATTEST:



Janise P. Enterkin, City Clerk

(SEAL)