

ORDINANCE NO. 831

AN ORDINANCE AMENDING ORDINANCE NO. 830 AND REGULATING CONDITIONS ALLOWED TO EXIST ON ANY RESIDENTIAL, COMMERCIAL OR INDUSTRIAL PREMISES WHICH ARE INJURIOUS TO THE HEALTH, SAFETY, OR GENERAL WELFARE OF THE GENERAL COMMUNITY OR ARE DETRIMENTAL TO ADJOINING PROPERTY, THE NEIGHBORHOOD OR CITY; PROVIDING FOR NOTICE TO LANDOWNERS, TENANTS, OR OCCUPANTS OF ANY PROPERTY ALLEGED TO BE IN VIOLATION OF THIS ORDINANCE AND ADMINISTRATIVE PROCEDURE FOR DEALING WITH SUCH CASES; FOR COLLECTION OF FINES, COSTS, AND EXPENSES OF CLEANUP THROUGH MUNICIPAL COURT PROCEEDINGS, CERTIFICATION OF COSTS AND EXPENSES TO CHAUTAUQUA COUNTY, KANSAS, FOR PLACING ON REAL ESTATE TAX STATEMENTS, OR FOR FILING A LIEN ON REAL ESTATE PURSUANT TO K.S.A. 60-1101, ET SEQ.; AND PROVIDING FINES FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY OF SEDAN, KANSAS, AS FOLLOWS:

Sections 1, 7, 8, 9, 11, 24, and 31 shall be amended as follows:

Section 1. 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:

Abandoned motor vehicle means any motor vehicle which is not currently registered or tagged pursuant to KSA 8-126 to 8-149 inclusive, as amended; or parked in violation of the Code; or incapable of moving under its own power; or in a junked or wrecked condition.

Accessory structure means a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns or outbuildings.

Any part thereof. Whenever the words premise, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."

Commercial or industrial means used or intended to be used primarily for other than residential purposes.

Dilapidation, deterioration or disrepair means 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.

Exterior means those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to, sidings, facing, veneer, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

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

Hearing board means a board of three hearing officers, consisting of the mayor and two council persons designated by the mayor, to hear cases of persons requesting the hearing who have been charged with a violation/(s) of Section 6.

Person means 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.

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

Public officer means a public officer to be charged with the administration and enforcement of this section designated by the city council.

Refuse means garbage and trash.

Residential means used or intended to be used primarily for human habitation.

Structure means 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.

Trash means combustible waste consisting of, but not limited to, papers, cartons, boxes, bands, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and noncombustible waste consisting of, but not limited to, metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers or street rubbish and sweepings.

Weathered means deterioration caused by exposure to the elements.

Yard means the area of the premises not occupied by any structure.

Section 7. Notice.

Any person found by the public officer to be in violation of section 6 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. Provided, if the owner is a resident of the county, the notice of violation may be personally served by the public officer. The notice shall state:

- (1) The condition which has caused the violation of the section; and
- (2) That the person in violation shall have:
 - a. Ten days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or
 - b. Thirty days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation; or
 - c. In the alternative to subsection a. and/or b. of this subsection, 10 days from the date of mailing of the notice to request, as provided in section 11, a hearing before the hearing board on the matter;
- (3) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8 and/or abatement of the condition by the city according to section 9, with the costs assessed against the person under section 13.

Section 8. Penalty.

The public officer may file a complaint in the municipal court or issue a Notice To Appear against any person found to be in violation of section 6. Provided, however, that such person shall first have been sent a notice as provided in section 7, and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the hearing board within the time periods specified in section 7. If a person is found by the public officer to be in violation of section 6 on three or more occasions within a 12 month period, the notice requirement of section 7 shall be inapplicable. Upon such complaint or Notice To Appear in the municipal court, any person found to be in violation of section 6 shall, upon conviction, be punished as provided in section 36.

Section 9. Abatement.

In addition to, or as an alternative to prosecution as provided in section 8, 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 7 has neither alleviated the condition causing the alleged violation nor requested a hearing before the hearing board within the time periods specified in section 7, the public officer may present a resolution to the city council 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 person in violation as provided in section 13. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (1) Personal service upon the person in violation ;
- (2) Service by certified mail, postage prepaid, return receipt requested; or
- (3) If 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.

If a hearing is requested within the 10-day period provided in section 7, 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 public officer before the hearing board . The hearing shall be held by the hearing board 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 municipal court. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the bearing, the hearing board shall record its determination and serve said determination upon the person in the manner provided in section 9.

Section 24. Administrative procedure.

- (a) Whenever informal complaint is made to the public officer, or notice is given to such officer of the existence of an apparent violation of this division, the public officer shall, within ten days thereafter, cause to be served upon the person in possession or the owner or occupant 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 take action within ten days after receipt of such notice to comply with the provisions of this article, or prosecution will be commenced for violation thereof.

- (b) If such person fails to comply with the provisions of this division within such time, the public officer shall issue a Notice To Appear to that person to appear in municipal court, or shall notify the city attorney, who shall commence prosecution under this division.

Section 31. Public officer; notice to remove.

(a) The city council shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this article, by mail or by personal service, once per calendar year. Such notice shall include the following:

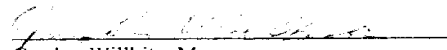
- (1) The owner, occupant or agent in charge of the property is in violation of the city weed control law.
- (2) The owner, occupant or agent in charge of the property is ordered to cut the weeds within ten days of the receipt of notice.
- (3) The owner, occupant or agent in charge of the property may request a hearing before the hearing board or its designated representative within five days of the receipt of notice.
- (4) If the owner, occupant or 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 fee, against the owner, occupant or agent in charge of the property.
- (5) The owner, occupant or 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.
- (6) No further notice shall be given prior to removal of weeds during the current calendar year.
- (7) The public officer should be contacted if there are any questions regarding the order.

(b) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this section, the city may not recover any costs or levy any assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section.


All other parts of Ordinance No. 830 not specifically amended by this Ordinance shall remain in full force and effect.

These amendments shall take effect and be in full force from and after its passage and approval by the mayor and city council for the City of Sedan, Kansas, and its publication one (1) time in the Sedan Times-Star.

Passed and approved this 16th day of June, 2003.


Gordon Willhite, Mayor

ATTEST:


Sherry Miller, City Clerk

[Return to list](#)