

**Ordinance #378**

**AN ORDINANCE ESTABLISHING AN ENVIRONMENTAL CODE FOR THE CITY OF LONGTON, KANSAS**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LONGTON, KANSAS;

Section 1. FINDINGS OF THE GOVERNING BODY: The governing body finds it 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:

- (1) Exterior conditions (yard) shall include, but not be limited to, dead or dying trees, the scattering over or the parking, leaving, depositing, or accumulation on the yard of any of the following:
  - a. Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;
  - b. Abandoned motor vehicles;
  - c. Furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.
- (2) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated or unsightly:
  - a. Exteriors of any structure;
  - b. Exteriors of any accessory structure; or Fences, walls, or retaining walls.
- (3) The provisions of this section 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 30 consecutive days or less; or
  - c. To any person conducting a business enterprise 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.

Section 2. DEFINITIONS; As used in this ordinance, unless the context clearly indicates otherwise:

*Abandoned motor vehicle* means 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 power; or in a junked or wrecked condition.

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

*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 of 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 mayor and approved by the 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.

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

Section 3. NOTICE; Any person found by the public officer to be in violation of section 1 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. Fifteen days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and /or
  - b. Forty-five days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation; or



c. In the alternative to subsections a. and /or b. of this subsection, 15 days from the date of mailing of the notice to request a hearing before the Governing Body on the matter.

(3) That failure to alleviate the condition or to request a hearing may result in prosecution under section 4, with the costs assessed against the person under section 5.

**Section 4. PENALTY** The public officer may file a complaint in the municipal court against any person found to be in violation of section 1. Provided, however, that such person shall first have been sent a notice as provided in section 3, and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the board of commissioners within the time periods specified in section 3. If a person is found by the public officer to be in violation of section 1 on three or more occasions within a 12-month period, the notice requirement of section 3 shall be inapplicable. Upon such complaint in the municipal court, any person found to be in violation of section 1 shall, upon conviction, be fined a one-time amount not to exceed \$50.00, and if the condition causing the violation continues to exist, the court may assess an additional fine of up to \$25.00 per day for as long as the condition continues to exist. The total aggregate fine assessed shall not exceed \$200.00.

**Section 5. ABATEMENT** If a person to whom a notice has been sent pursuant to section 3 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Governing Body within the time periods specified in section 3, 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 20 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. 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 6. DISPOSAL OF PROPERTY:**

Whenever the public officer is authorized to abate the conditions causing a violation, as provided in section 5, the following procedures shall be observed:

- a. Items confiscated which have no practical value to the person in violation shall be disposed of by the city.

**Section 7. HEARING:** If a hearing is requested within the 15 day period as provided in section 3, 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 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 witnessed 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 upon the person in the matter provided in section 5.

**Section 8. COSTS ASSESSED:** If the city abates the nuisance pursuant to section 5, 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 shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

PASSED BY THE COUNCIL THE 13<sup>TH</sup> DAY OF November, 2001.

ATTEST:

Leota McDow  
Leota McDow, City Clerk

Kent Rowe  
Kent Rowe, Mayor

(SEAL)

