

ORDINANCE NO. G-17-01

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF COFFEYVILLE, KANSAS.

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

Section 1. That the following provisions of Chapter 26 (Nuisances and Environmental Protection) of the Code of Ordinances of the City of Coffeyville, Kansas, be and are hereby amended, as follows:

- A. Section 26-23 is repealed in its entirety.
- B. Section 26-26 is amended as follows:

Sec. 26-26. – Prohibited acts.

It is unlawful for any person to permit or allow conditions on any residential, commercial or industrial premises, which are injurious to the health, safety or general welfare of the residents of the community or conditions which have a blighting effect or are detrimental to adjoining property, the neighborhood or the city. Without limiting the generality of the conditions prohibited by this section, such unlawful conditions shall include the following:

- (1) *Exterior conditions.* No person shall allow on any yard, porch, deck, balcony, or other exterior area of a premises, the accumulation of any of the following items: lumber, wire, metal, concrete, masonry products, plastic products, supplies, building material, equipment, machinery, auto parts, tires, stoves, refrigerators, televisions, indoor furniture, sinks, bathtubs, toilets, carpet, garbage, rubbish, refuse, junk, abandoned motor vehicles, inoperable lawnmowers, brush piles (except those intended to be burned with permission of the fire department within seven days from the date created), or the like.
- (2) *Furniture.* It shall be unlawful for any person to allow on any yard, or other exterior area of any premises, furniture, other than outdoor furniture, as that term is defined in this chapter.
- (3) *Upholstered furniture.* It shall be unlawful for any person to allow on any yard, unenclosed porch, deck, balcony, or other exterior area of any premises, upholstered furniture, including, but not limited to, upholstered chairs, upholstered couches, mattresses, or other similar items. This subsection does not apply to outdoor furniture or to enclosed porches, as those terms are defined in this chapter.

- (4) *Dilapidated structure.* It shall be unlawful for any person to allow any structure to fall into a state or condition of dilapidation, deterioration or disrepair, as those terms are defined in this chapter.

C. Section 26-27 is amended as follows:

Sec. 26-27. - Notice of violation.

- (a) The code enforcement officer shall serve upon the owner, any agent of the owner of the property, or any other person, corporation, partnership or association found by the code enforcement officer to be in violation of section 26-26 hereof, a notice stating the violation and order to abate or remove the offending conditions. The notice and order shall be served on the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service, or by posting the notice on the premises in a conspicuous place. If the property is unoccupied and the owner of record is a nonresident of the city, the notice and order shall be served by certified mail, return receipt requested, to the last known address of the owner. The failure of any such person to receive notice shall not affect the validity of any proceedings.
- (b) If the owner, occupant or agent of the property has failed or refused to accept delivery of a notice and order sent pursuant to this section during the preceding 24 month period, the code enforcement officer may provide notice of the issuance of any further orders to abate or remove any offending condition from such property by other reasonable methods including, but not limited to, door hangers, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident of the city, notice provided by this section may be given by telephone communication or first class mail.
- (c) The notice and order shall state:
- (1) The conditions which has or have caused the violation of this article; and
 - (2) That the person in violation shall have:
 - (a) Ten days from the date of service of the notice and order to alleviate the exterior conditions (yard) violations or ten days from the date service was refused;
 - (b) 45 days from the date of service of the notice and order to alleviate the exterior conditions (structure) violations;
 - (c) Ten days from the date of service of the notice and order, plus any additional time granted under subsection (3) of this section, to request, as provided in section 26-30, a hearing before the city manager or his designee regarding the matter; and

- (3) That the city manager, or his designee, may grant one or more extensions to the time periods stated in subsection (c)(2) of this section, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement or removal of the conditions which have caused the violation of this article; and,
- (4) That failure to abate or remove the conditions or to request a hearing may result in prosecution under section 26-28 or abatement and removal of the conditions by the city according to section 26-29 with the costs assessed against the property under section 26-32 (K.S.A. 12-1617e).

D. Section 26-28 is amended as follows:

Sec. 26-28. - Penalty.

The code enforcement officer may file a complaint in the municipal court against any person found to be in violation of section 26-26; provided, however, that such person shall first have been sent a notice and order as provided in section 26-27 and that the person has neither abated or removed the conditions causing the alleged violation, nor requested a hearing before the city manager within the time periods specified in section 26-27. Upon such complaint in the municipal court, any person found to be in violation of section 26-26 shall, upon conviction, be punished by a fine of not less than \$100.00 or more than \$1,000.00, or by imprisonment for not more than 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 offending conditions are permitted to exist.

E. Section 26-29 is amended as follows:

Sec. 26-29. - Abatement.

In addition, or as an alternative, to prosecution as provided in section 26-28, the code enforcement officer may seek to remedy violations of this article in the following manner:

- (1) If a person to whom a notice and order has been served pursuant to section 26-27 has neither abated nor removed the conditions causing the alleged violation, nor requested a hearing before the city manager within the time periods specified in section 26-27, the code enforcement officer may proceed to have the nuisance removed and abated from the lot or parcel of ground and report the cost thereof to the city clerk. The cost of such removal or abatement shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the costs, and the county clerk shall extend the same on the tax roll

of the county against the lot or parcel of ground. Such costs shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

F. Section 26-30 is amended as follows:

Sec. 26-30. - Hearing.

If a hearing is requested within the time period as provided in section 26-27(c)(2)(c), such request shall be made in writing to the city clerk. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the code enforcement officer. The hearing shall be held by the city manager, or his designee, as soon as practicable 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 three 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 city manager or his designee. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the city manager, or his designee, shall be issued in writing and mailed to the address given by the person requesting the hearing.

G. Section 26-31 is amended as follows:

Sec. 26-31. - Appeals.

Any person affected by any determination of the city manager under section 26-30 may appeal such determination to the city's municipal court.

H. Section 26-49 is repealed in its entirety.

I. Section 26-50 is repealed in its entirety.

J. Section 26-152 is amended as follows:

Sec. 26-152. – Prohibitions.

(a) No person shall park, maintain or store building materials, construction equipment, work machinery or automotive parts of any kind, particularly refuse or salvage, upon any lot, tract or parcel of land, other than in such districts as are permitted by ordinance within the city, except during actual construction or repair operations upon the premises, unless such articles are enclosed in a fence.

(b) No person shall park, maintain, deposit or store an unlicensed or inoperable vehicle on any street, alley or other public property, or

on the adjacent yard or driveway of any residence within the city or upon any lot or land within the city unless:

- (1) The vehicle is enclosed in a garage or other building; or
- (2) The vehicle is enclosed behind a fence.

(c) No vehicle which is parked adjacent to any commercial service station or commercial garage and awaiting repairs shall be considered inoperable unless such vehicle remains so parked for 30 or more days.

(d) As used in this section, the term "fence" or "fencing" shall mean either artificial or natural screening which obstructs and prevents the view of the articles subject to this section and prohibits ready access to the area by children. The fence shall be of sufficient and uniform height so that no such articles can be seen from the surrounding area and shall be constructed of material which is compatible with the character of the neighborhood in which it is located. The "fence" or "fencing" shall comply with the city's fence regulations.

K. Section 26-182 is repealed in its entirety.

L. Section 26-183 is repealed in its entirety.

M. Section 26-184 is repealed in its entirety.

N. Section 26-185 is repealed in its entirety.

O. Section 26-186 is repealed in its entirety.

P. Section 26-187 is repealed in its entirety.

Q. Section 26-188 is repealed in its entirety.

Section 2. That any conflicting ordinances, or parts thereof, are hereby repealed.

Section 3. This Ordinance shall take effect and be in force from and after its publication, as provided by law.

Passed and approved this 9th day of May 2017.



Paul Bauer, Mayor

ATTEST:

Cindy Price
Cindy Price, City Clerk

APPROVED AS TO FORM:

Paul Kritz
Paul Kritz, City Attorney

