

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2238

By Committee on Local Government

2-12

1 AN ACT establishing the Sedgwick county urban area nuisance abatement
2 act.

3

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Sections 1 through ~~3~~ 5, and amendments thereto, shall
6 be known and may be cited as the Sedgwick county urban area nuisance
7 act.

8 (b) Sedgwick county has been declared an urban area under K.S.A.
9 19-2654, and amendments thereto, as permitted by section 17 of article 2
10 of the constitution of the state of Kansas.

11 (c) Before any nuisance abatement process shall be commenced
12 under this act, Sedgwick county first shall have obtained a conviction for a
13 county code violation resulting from such nuisance within the 12-month
14 period prior to the issuance of any order as provided in section 2, and
15 amendments thereto.

16 (d) The board of county commissioners may order the removal or
17 abatement of any nuisance from any lot or parcel of ground within the
18 unincorporated area of the county. The board may order:

19 ~~(1) The draining of any pond or other body of water; or~~

20 (2) the repair or demolition of any structure, or the removal or
21 abatement of any other type of nuisance.

22 The order shall provide that all costs associated with the abatement
23 shall be paid by the owner of the property on which the nuisance is
24 located.

25 Sec. 2. (a) Whenever the board of county commissioners or other
26 agency designated by the board files with the Sedgwick county clerk a
27 statement in writing describing a nuisance and declaring that such is a
28 menace and dangerous to the health of the inhabitants of the county, the
29 board of county commissioners, by resolution, may make such
30 determination.

31 (b) Except as provided by subsection (c), the board of county
32 commissioners shall order the owner of the property to remove and abate
33 the nuisance within not less than 10 days, to be specified in the order. The
34 governing body or its designated representative shall grant extensions of
35 the time period indicated in the order if the owner or agent of the property
36 demonstrates that due diligence is being exercised in abating the nuisance.

1 The order shall state that before the expiration of the waiting period or any
2 extension, the recipient may request a hearing before the governing body
3 or its designated representative. The order shall be served on the owner or
4 agent of the property by certified mail, return receipt requested, or by
5 personal service. If the property is unoccupied and the owner is a
6 nonresident, then by mailing the order by certified mail, return receipt
7 requested, to the last known address of the owner.

8 (c) If the owner or agent of the owner of the property has failed to
9 accept delivery or otherwise failed to effectuate receipt of a notice sent
10 pursuant to this section during the preceding 24-month period, the
11 governing body may provide notice of the issuance of any further orders to
12 abate or remove a nuisance from the property in the manner provided by
13 subsection (d) or as provided in this subsection. The governing body may
14 provide notice of the order by such methods including, but not limited to,
15 door hangers, conspicuously posting notice of the order on the property,
16 personal notification, telephone communication or first class mail. If the
17 property is unoccupied and the owner is a nonresident, notice provided by
18 this section shall be given by telephone communication or first class mail.

19 (d) If the owner or agent fails to comply with the requirement of the
20 order for a period longer than that named in the order or any extensions of
21 such time period, the board of county commissioners may proceed to
22 repair or demolish any structure, ~~drain any pond or ponds of water,~~ and
23 have the things described in the order removed and abated from the lot or
24 parcel of ground. If the county abates or removes the nuisance, the county
25 shall give notice to the owner or agent by certified mail, return receipt
26 requested, of the total cost of the abatement or removal incurred by the
27 county. The notice also shall state that payment of the cost is due and
28 payable within 30 days following receipt of the notice.

29 (e) If the cost of the removal or abatement is not paid within the 30-
30 day period, the cost shall be assessed and charged against the lot or parcel
31 of land on which the nuisance was located. If the cost is to be assessed, the
32 county clerk, at the time of certifying other county taxes, shall certify the
33 costs, and the county clerk shall extend the same on the tax roll of the
34 county against the lot or parcel of land, and it shall be collected by the
35 county treasurer.

36 **(f) In assessing the cost of removal and abatement of a nuisance,**
37 **the county shall subtract from the total cost of the abatement or**
38 **removal incurred by the county the value of the property removed or**
39 **abated. If the value of the property removed or abated is greater than**
40 **the cost of the abatement or removal incurred by the county, the**
41 **county shall pay the owner the difference. If the value of the property**
42 **is contested, the property owner may request a hearing before the**
43 **governing body or its designated representative prior to the 30 days**

1 **following receipt of notice of costs due and payable under subsection**
2 **(d).**

3 Sec. 3. Sedgwick county may remove and abate from property, other
4 than public property or property open to the use by the public, a motor
5 vehicle determined to be a nuisance. Disposition of such vehicles shall be
6 in compliance with the procedures for impoundment, notice and public
7 auction provided by K.S.A. 8-1102(a)(2), and amendments thereto.
8 Following any sale by public auction of a vehicle determined to be a
9 nuisance, the purchaser may file proof with the division of vehicles, and
10 the division shall issue a certificate of title to the purchaser of the motor
11 vehicle. If a public auction is conducted, but no responsible bid is
12 received, the county may file proof with the division of vehicles, and the
13 division shall issue a certificate of title of the motor vehicle to the county.
14 Any person whose motor vehicle has been disposed of pursuant to this
15 section shall be eligible for a refund of the tax imposed pursuant to K.S.A.
16 79-5101 et seq., and amendments thereto. The amount of the refund shall
17 be determined in the manner provided by K.S.A. 79-5107, and
18 amendments thereto.

19 Sec. 4. The governing body may adopt a resolution to establish any
20 policies, procedures, designated body or other related matters for hearings
21 that property owners or their agents may request pursuant to this act.

22 **Sec. 5. Nothing in the Sedgwick county urban area nuisance act**
23 **shall apply to land, structures, machinery and equipment, or motor**
24 **vehicles used for agricultural purposes.**

25 Sec.-5 6. This act shall take effect and be in force from and after its
26 publication in the statute book.