

Ordinance No. 891 Summary

On May 30, 2018, the City of Wellsville, Kansas, adopted Ordinance No. 891 , amending City regulations prohibiting nuisances on property within the City to delegate the authority to issue violation notices from the Governing Body to the City Code Enforcement Officer.

A complete copy of this ordinance is available at www.cityofwellsvilleks.org or at City Hall, 411 Main Street, Wellsville, Kansas. This summary is certified by Patrick G. Reavey, City Attorney.

ORDINANCE NO. 891

AN ORDINANCE AMENDING ARTICLES 2, 2a, AND 3 OF CHAPTER VIII TO INCLUDE PROVISIONS ALLOWING THE GOVERNING BODY TO DELEGATE ITS STATUTORY AUTHORITY TO ISSUE NOTICES OF CODE VIOLATIONS TO A DESIGNATED CODE ENFORCEMENT OFFICER

WHEREAS, K.S.A. 12-1617e allows cities to adopt regulations to prohibit nuisances within the City, but the statute indicates the governing body is to issue all notices of violations of said regulations; and

WHEREAS, the City has adopted regulations to prohibit nuisances within the City, and Articles 2, 2a, and 3 of Chapter VIII of the City Code indicates that the Governing Body will issue formal notices of violations of these regulations to owners or occupants of the property causing the nuisance; and

WHEREAS, the City Attorney has indicated to the Governing Body that it has the ability to delegate its authority to issue violation notices to the City Code Enforcement Officer, and this belief is shared by the League of Kansas Municipalities; and

WHEREAS, the Governing Body believes it is more efficient and productive that the City Code Enforcement Officer issue notices of violation, and it (the Governing Body) desires to delegate this authority to the City Code Enforcement Officer.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of Wellsville, Kansas:

Section 1. The Governing Body hereby adopts the following amendments to Section 8-205 of Article 2 of Chapter VIII of the City Code:

8-205. Order of violation.

(a) The governing body or its designee, as hereinafter named, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(c) The City Code Enforcement Officer is hereby designated by the governing body for the purposes of issuing the order required herein. Such order shall be issued by the City Code Enforcement Officer upon the filing of a written statement of a violation of this Article. The order shall be issued in the name of the governing body; shall be served as required in this Article; and, shall contain all notices and other information as required by this Article and K.S.A. 12-1617e, and amendments thereto.

Section 2. The Governing Body hereby adopts the following amendments to Section 8-2a09 of Article 2 of Chapter VIII of the City Code:

8-2a09. Order of violation.

(a) The governing body or its designee, as hereinafter named, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-2A08 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

- (1) The condition which has caused the violation of this ordinance; and
- (2) That the person in violation shall have:
 - (A) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;
 - (B) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (a) and (b) above,
 - (C) 15 days from the date of the mailing of the notice to request, as provided in Section 8-2A12 a hearing before the governing body on the matter; and

- (3) That failure to alleviate the condition or to request a hearing may result in prosecution under Section 8-2A11 and/or abatement of the condition by the city according to Section 8-2A11 with the costs assessed against the property under Section 8-2A14.

(c) The City Code Enforcement Officer is hereby designated by the governing body for the purposes of issuing the order required herein. Such order shall be issued by the City Code Enforcement Officer upon the filing of a written statement of a violation of this Article. The order shall be issued in the name of the governing body; shall be served as required in this Article; and, shall contain all notices and other information as required by this Article and K.S.A. 12-1617e, and amendments thereto.

Section 3. The Governing Body hereby adopts the following amendments to Section 8-307 of Article 3 of Chapter VIII of the City Code:

8-307. Order of violation.

(a) The governing body or its designee, as hereinafter named, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(c) The City Code Enforcement Officer is hereby designated by the governing body for the purposes of issuing the order required herein. Such order shall be issued by the City Code Enforcement Officer upon the filing of a written statement of a violation of this Article. The order shall be issued in the name of the governing body; shall be served as required in this Article; and, shall contain all notices and other information as required by this Article and K.S.A. 12-1617e, and amendments thereto.

Section 4. Repealer. Existing Section 8-205 of Article 2, Section 8-2A09 of Article 2a, and Section 8-307 of Article 3, all within Chapter VIII of the City Code, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect upon its adoption by the City Council, approval by the Mayor and publication in the City's official newspaper.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WELLSVILLE, KANSAS
AND APPROVED BY THE MAYOR ON THE 30TH DAY OF MAY, 2018.

(seal)

BILL LYTLE, Mayor

ATTEST:

TAMMY JONES, City Clerk

APPROVED AS TO FORM:

PATRICK G. REAVEY, City Attorney