



INTEROFFICE MEMORANDUM

Date: September 15, 2014

To: Scott French, Fire Chief

From: Brad Claussen, Building Official

Subject: Property Maintenance Inspection Procedures

This is a review of our property maintenance inspection procedures and ordinances. Property maintenance includes a number of things, many of which have their own specific statutes and ordinances we must follow. The specific processes I will discuss in this memo are the most common items we address including weeds, nuisances (trash and refuse accumulation), inoperable vehicles, insufficient trash containers, repair of public sidewalks and snow on public sidewalks. All of these things affect the community in various ways from public health and safety to blighting and effect on property values. Jurisdictions that have no or ineffective property maintenance enforcement usually have recognizable problems with these issues. As part of this memo, I will also look at some of the alternatives to our current processes and suggest why, in my opinion, those may or may not be good alternatives. I am not intending to address exterior maintenance of structures in this memo nor interior inspections of residential dwelling units. Those subjects will be covered in a separate memo.

Weeds and Tall Grass

Weeds and tall grass harbor rodents, animals and insects such as ticks and mosquitoes as well as promoting blight and degrading property values. The city ordinance sections which require mowing on private property are Section 21-26 through 21-29. This ordinance is modeled under Kansas Statute 12-1617f. As with all of the other processes I will discuss, normally inspections of this violation come about either through a complaint from the public or observation of one of our code staff. After the inspection is done and a violation has been determined to exist, we create a notice addressed to the property owner which is sent certified mail and gives five days from receipt of the notice to mow or cut the grass and weeds. A courtesy copy of that notice is also sent regular first class mail to anyone who has an equitable interest in the property (normally someone buying the property on contract) as well as to the occupant if not owner occupied. At the end of that time frame or when the letter is returned unclaimed or refused, we conduct a re-inspection and if the grass is cut we close out the file. If not, photos are taken and we may then contact our abatement contractor to mow the property. When that is done, the owner receives a bill for the cost plus a \$50 administrative fee. That fee is intended to roughly cover the cost of inspection, printing,

mailing etc. If the mowing bill is not paid, once a year all unpaid charges are certified to the county tax office and attached to the property taxes. In 1997, the city commission voted to change the ordinance to allow for a one time annual notice to a property owner for violation of the weed ordinance. This one time notice is allowed by state statute. In other words, once an owner has received a weed violation notice in a given year, if the property is found to be out of compliance again that year, the city may mow the property and charge the owner with no further notice. That change came about because of the number of complaints regarding repeat offenders of this ordinance and the postage cost for repeat offenders. Over the past 10 years, we have abated an average of 75 properties annually in violation of the weed ordinance while averaging 950 notices city wide over that same span of time.

Nuisances

Nuisances include things such as garbage, trash, furniture, appliances, tree branch piles, stagnant water and similar items. Similar to weeds, these nuisances provide harborage for insects, rodents and other animals as well as promoting blight and degrading property values. The city ordinances that regulate nuisances are 21-11 through 21-19 which are patterned under Kansas statute 12-1617e. There are two portions of the nuisance ordinance that I will go over here. The general process is the same as it is with weeds and tall grass. The inspection is done, notice is given by certified mail and upon recheck if the violation still exists abatement may then occur. The difference specifically with nuisances is a portion of the ordinance that allows for “accelerated abatement”. This section was added to the nuisance ordinance in 2010. At that time, staff was looking for a more effective, efficient and timely way of dealing with trash and garbage that had the potential of becoming scattered around neighborhoods. While normal nuisance notices are sent certified mail same as the weed notices, the accelerated abatement process allows for simply posting the notice at the property and then attempting to call or e-mail the owner if the property is not owner occupied. The deadline for compliance under an accelerated abatement notice is 24 hours. If not done in this time, we may then abate the nuisance. Annually we average 984 nuisance notices however, of those, an average of 307 annually are posted using the accelerated abatement process. We average 38 abatements annually.

Insufficient or Non-Compliant Trash Containers

City ordinance section 16-2 requires all garbage and trash to be kept in suitable containers with tight fitting lids. A container without a lid is an open invitation to animals, birds and other scavengers which then tend to scatter the trash across the neighborhood. If containers are provided by the trash company they are to bear the name and phone number of the trash collection company. The containers are also to be kept out of the front yard until collection day. A notice sent regular mail for a violation of any of these gives three days from receipt of notice to comply. If compliance is not achieved, we may then issue a citation to the owner or tenant. After the second notice of violation to an individual in any 12 month period, tickets may then be issued without any further notice. We average 40 of these notices per year.

Inoperable Vehicles

City ordinance 31-121 through 31-127 addresses vehicles that are inoperable on private property. The Riley County Police Department addresses these if they are located on the public streets. Inoperable vehicles are again similar to weed and nuisance issues in that they allow harborage of a variety of animals and insects as well as causing blight and decreasing property values. In addition, there have been instances of children being injured or dying when either playing in junk vehicles or being trapped inside of them. We would normally presume that something is

inoperable if it is on jacks or stands, missing parts that are necessary for operation on the road or lack of a current license plate if the vehicle has not appeared to have moved for a long period of time. City ordinance currently requires us to notify the owner of the inoperable vehicle and allow them 14 days to demonstrate that it is operable, make it operable, remove it or store it in a garage. The ordinance does allow an exemption for vehicles inoperable for 30 days or less while repairs or maintenance are being conducted. If compliance is not attained, ordinance notes that the owner may be prosecuted. We have averaged 95 inoperable vehicle notices a year over the past 10 years.

Snow & Ice on Sidewalks

After measurable snowfall, city ordinance 30-71 requires that snow and ice be cleared from the public sidewalks for pedestrian safety within 36 hours of the cessation of the precipitation. For consistency purposes, the Building Official determines when that time occurs. After the 36 hours elapses, department personnel may begin enforcing ordinances related to these snow events. When planning to inspect walks after a snow event, guidelines are used to determine priority for areas to be inspected. Those priority areas include complaints followed by locations around schools. The school priority order was determined based on data supplied by USD 383 indicating the number of children who are not bussed at each school. Following that list, if staff time is still available, high pedestrian traffic areas around the university and commercial zones in the city will be inspected. In locations where complaints have not been received, door hangars may be used prior to posting with accelerated abatement notices. Also, other department personnel may be utilized to help post notices in order to increase efficiency in handling the follow up to snow events. We average 117 of these notices annually but this number can fluctuate widely obviously depending on the amount of snowfall in a given year.

Sidewalk Repairs

Kansas statute 12-1808 places the responsibility of maintaining the public sidewalk with the abutting property owner. When we receive a complaint or notice an unsafe section of public sidewalk, a notice is sent certified mail to the property owner giving them 15 days to file a plan of action and timetable for repairs/replacement. We then work with the owner to make sure the work is completed to city standards as well as federal accessibility requirements. During the winter months the timetable may be as long as 3 or 4 months depending on the weather. If the work is not done, the city may construct or repair the walk and levy the cost as a special assessment against the abutting property similar to new infrastructure improvements. An average of 155 sidewalk repair notices are sent annually.

Alternatives

The two ways that both city ordinances and state statutes that deal with several of these items allow service of the notices are through certified mail or hand delivery. Other cities in Kansas follow this same procedure due to the state statute. City legal staff confirms that these are the two permitted methods of service and furthermore, any other method may lead to less protection for the city in the event we abate or prosecute. It is worth pointing out that proof of serving a notice is only required though, should we wish to have the option to abate the violation. At least part of the cost of the certified mailings is recouped annually through an administrative fee that is attached to the bill anytime we mow or abate a nuisance. This administrative fee is currently set at \$50 for mowing and \$75 for nuisances. Using the average numbers I listed above, certified mailings for nuisance notices average \$4,386 per year and an average of \$3,600 in administrative fees are charged. The fee was raised in 2010 when the nuisance ordinance was updated last and now more closely covers some of the costs associated with enforcement. However, the administrative fee for

weed abatements as noted above is still \$50 and has not been updated for quite some time. One option would be to update the weed ordinance to set the administrative fee at \$75 to parallel what is charged for nuisances. Using our average annual figures for weed violations, we expend \$6,156 for certified mailings and currently generate \$3,750 in fees. Upping the fee would bring in an average of \$5,625 which would be much closer to offsetting expenses.

As technology continues to evolve, one idea I would like to explore would be the use of e-mail with return receipt as an accepted method for delivery of notices in this memo. This would necessitate a change of state statute at least for weed and nuisance notices however, so perhaps this is something that could be brought up to our legislators and lobbyists. This could save several thousand dollars annually in certified mail and would also provide a much faster resolution to most property maintenance issues. Along with this idea, I would also suggest a required registry of property owners and managers which would provide us with e-mail addresses among other things.

As noted above, we do not have to send notices regarding weeds and most general nuisances. The notice is only required if we wish to have the right to abate the problem should the owner/manager/occupant fail to do so. We could simply issue a ticket to violators which would require them to appear in municipal court similar to traffic tickets. We currently choose not to do this however unless we are dealing with a habitual violator or the problem is so severe that normal abatement may be a last resort.

We could also simply send letters regular mail or conduct personal visits and make phone calls but in our experience calling especially does not promote good oversight of property by the owners/managers in many cases. There are owners and managers who simply ignore the property knowing we would call when it is out of compliance leading to a higher number of overall violations. Neither do we have a current database of owner nor manager information since the repeal of the rental inspection program so contact in this way currently would be spotty at best. If that attempt is not complied with we must then send the letter certified anyway. We would also add an additional trip to the property in some cases for the recheck necessary. More of an issue with doing this would be the potential delay in gaining compliance. Citizens who complain about code violations expect an expedient resolution to the matter and adding time to the compliance process would potentially lead to added citizen complaints about the lack of timely compliance. It is worth noting that our numbers of complaints from the public regarding property maintenance issues has been declining in recent years.

As you are aware, we are also working on putting I pads into use with our inspectors. We have tested this and it has seemed to work well in the limited time we have been testing. One of the things we may be able to do with these is to attach a picture to each inspection file from the field as the inspector makes the initial inspection. This will accomplish a couple of things. One, we will have evidence of the actual issue if a question arises on what the violation was and two, supervisors will be able to better monitor the type of code problems inspectors are dealing with so as to adjust focus if need be.

Once in a while we run into a property owner that is unable to complete compliance with our notices for a variety of reasons including disabilities, age, illness and other similar reasons. When we find this to be the case, we have worked to connect them with Hands on Kansas State which provides volunteers for citizens who need assistance in mowing, cleanup or minor repairs. We have historically had a very good working relationship with this group and have partnered with

them on several community projects such as Furniture amnesty day, day after Fake Patty's day cleanup and other neighborhood cleanup days. We plan to continue this partnership in the future.

A summary of changes that we would recommend are as follows:

- Raise the administrative fee for mowing abatements from \$50 to \$75 to match the fee for nuisance abatements
- Pursue a state statute change allowing e-mail with return receipt as an allowed method of delivery of notices
- Creation of a registry database containing owner/manager contact information
- Fully implement use of I-Pads during field inspections and attach photos of each initial inspection to the record

For what it's worth, while there are those that are habitual violators of the ordinances listed here (we have individuals who have amassed as many as 730 notices over the years) there are owners and management companies who never or almost never receive a notice of violation. The difference in my opinion at least in part, is in the frequency of visits to each specific property by those owners or managers and the timeliness of action on their part when they observe a problem.

As I know you are aware, we use common sense when inspecting properties. A violation is not always found when responding to a complaint. We continually work to balance good enforcement with rights of property owners and always try to work to get problems corrected whenever possible rather than be punitive. We many times will grant extensions to time frames if the owner/manager is showing diligence in getting the problem corrected and most especially if they contact us to ask for that extension. We continually look for ways to make this process more efficient. A number of flow charts are attached showing our current procedures for each of the items in this memo. If you have any questions or would like to discuss any of the items in this memo further, let me know.