

SHERWOOD IMPROVEMENT DISTRICT RESOLUTION 2013-02

**A RESOLUTION CONCERNING NUISANCES WITHIN
THE SHERWOOD IMPROVEMENT DISTRICT**

WHEREAS, the Board of the Sherwood Improvement District is authorized by K.S.A. 19-2765(o) & (p) to secure the general health of the district by the adoption of resolutions to prevent, abate and remove nuisances; and

WHEREAS, the Board of the Sherwood Improvement District finds it would be in the best interest of the public health, safety, and welfare to adopt a resolution concerning nuisances within the Sherwood Improvement District; and

WHEREAS, the Board of the Sherwood Improvement District finds that certain conditions as hereinafter defined cause annoyance, inconvenience, or damage to the public with respect to the public's comfort, health, safety, welfare, and enjoyment of property; and

WHEREAS, the Board of the Sherwood Improvement District wishes to proscribe those conditions which are injurious to the public and which constitute a public nuisance. It is further the purpose and intent of the Board of the Sherwood Improvement District to provide for procedures regarding notice, abatement, and prosecution of those individuals who allow nuisance conditions to exist or maintain nuisance conditions.

NOW THEREFORE, the Board of the Sherwood Improvement District, sitting in regular session on this 8th day of October, 2013, and intending to exercise its authority pursuant to K.S.A. 19-2765(o) & (p) does hereby resolve the following:

1. For purposes of this resolution, the following words and phrases are defined as follows:

- (a) *Nuisance* is any condition which:
 - (1) Injures or endangers the comfort, repose, health, safety, or welfare of the public;
 - (2) Offends decency;
 - (3) Is offensive to the senses;
 - (4) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
 - (5) In any way renders another person insecure in life or the use of property; or
 - (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of another.
- (b) *Abandoned vehicle* shall mean any motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control. Any vehicle which is wrecked or partially wrecked or dismantled or inoperative for a period of thirty (30) days or longer shall in such case constitute a *prima facie* presumption that the last registered owner thereof has abandoned such vehicle regardless of whether the physical possession of such vehicle remains in technical custody or control of such owner.
- (c) *Owner* shall mean any person who alone or jointly or severally with others:
 - (1) Shall have record legal title to any property or structure thereon with or without accompanying actual possession thereof;
 - (2) Shall have charge, care, or control of any property or structure thereon as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner; or

- (3) In the case of a vehicle, is the last registered owner.
- (d) *Premises* shall mean a lot, plot, or parcel of land including structures located thereon.
- (e) *Property* means any real property lying within the Sherwood Improvement District which is not a street or highway.
- (f) *Implement of husbandry* means every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways.
- (g) *Vehicle* means a machine other than an implement of husbandry propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transports persons or property or pulls machinery and shall include, without limitation, an automobile, truck trailer, motorcycle, buggy and wagon.
- (h) *Livestock* means cattle, swine, horses, sheep, goats, poultry, fowl, all creatures of the ratite family that are not indigenous to this state, including but not limited to ostriches, emus and rheas, and domesticated deer, domesticated rabbits, llamas and alpacas.

2. Maintaining a nuisance is, by act or by failure to perform a legal duty, intentionally causing or permitting a nuisance to exist.

3. Permitting a nuisance to exist is knowingly permitting lots, parcels, or pieces of real property under the control of the offender, including the streets and alleys in front of and abutting such lots and pieces of land to be used or allowed to remain in such condition as to allow a nuisance condition to exist.

4. The maintaining or permitting any of the following conditions to be or remain on any lot or parcel of ground in any platted subdivision of the Sherwood Improvement District or any parcel of land four (4) acres or less adjacent to an occupied residence, located outside the corporate limits of a city, is hereby declared to be and constitute a nuisance. However, this resolution shall be enforceable with regard to

abandoned vehicles, when such is found to constitute a nuisance in accordance with this resolution, where such nuisance occurs in the Sherwood Improvement District, regardless of the acreage of the property on which such nuisance is located, or whether such property is in a platted subdivision. This enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive.

- (a) Rank grass, weeds or other obnoxious vegetation when such growths reach at least eighteen inches (18") in height.
- (b) Placement, storage, or accumulation of garbage, rubbish, trash, refuse, junk and other materials, metals, plumbing fixtures, appliances, auto parts, junked, wrecked, inoperable or abandoned vehicles, lumber or other litter and furniture, stuffed furniture, clothing, or other household items which creates an unsightly appearance. This provision applies without limitation to homeowners, renters, landlords, tenants, antique dealers, contractors, pawnbrokers, plumbers, precious metal dealers, secondhand goods dealers, or any other business, whether or not outside storage of items and materials is authorized by the zoning ordinances of Shawnee County and whether or not the building, land, or property is occupied by human beings.
- (c) Any condition which provides harborage for rats, mice, or other vermin.
- (d) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (e) The raising or keeping of livestock.
- (f) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, industrial wastes, or other substances which are injurious to overland flow or ground water.
- (g) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (h) Any building where exterior surfaces, other than decay-resistant surfaces, are not protected from the weather, elements and decay by paint or other protective covering or treatment.

(i) Any vacant or unoccupied structure, which is not secured or is in a condition that allows access by any person and/or has fallen into a state of general disrepair.

(j) Any structure which has been burnt and which has not been removed or repaired within a reasonable time after the fire giving rise to the damage.

5. No person, firm, corporation, partnership, or other business entity shall, knowingly or unknowingly, maintain or permit a nuisance to exist. However, with regard to vehicles, except as provided in this resolution, it shall be unlawful to permit rusted, wrecked, junked, partially dismantled, inoperative, or abandoned vehicles to be parked, stored, or left on any property within the Sherwood Improvement District for a period in excess of thirty (30) days unless such vehicle is:

(a) Completely enclosed within a building or surrounded by a lawful and aesthetically pleasing wood, brick, or stone fence, or screened by natural objects, plantings, or other appropriate means so that the vehicle will not be visible from the main traveled way of any adjoining street or highway; and

(b) Kept and maintained on racks or blocks with at least eighteen inches (18") of clearance between the bottom of the vehicle and the ground so as to prevent rodent harborage and breeding; or

(c) So stored or parked on private property in connection with and as necessary to a duly licensed business or commercial enterprise operated and conducted pursuant to law.

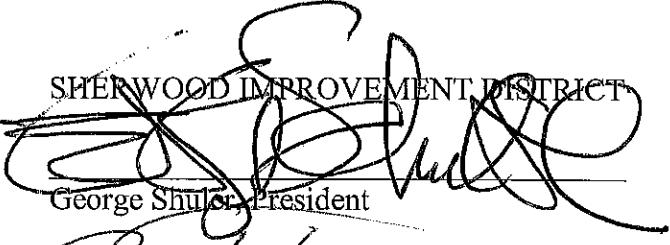
6. When the Sherwood Improvement District determines that a nuisance exists, in accordance with K.S.A. 19-2765(o) and/or (p) the Secretary of the Board, or the Board's designee, shall send a notice to the owner of the property to remove or abate such nuisance within a period of time not to exceed 10 days. If the owner fails to remove or abate the nuisance within the time specified, the Board may provide for the removal or abatement of the nuisance and provide for the assessment of the cost of abating or

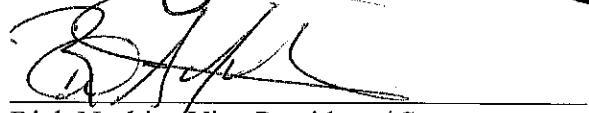
removing such nuisance against the property upon which the same is located or maintained. The Board may also assess a fine up to \$100.00 per day until the nuisance is abated. Such assessments and/or fines shall be certified by the Secretary of the Board of the Sherwood Improvement District to the Shawnee County Clerk, to be placed upon the tax roll for collection at the same time and in the same manner as ad valorem property tax levies are collected and shall be subject to the same penalties and the same procedure for collection as is prescribed by law for the collection of such ad valorem property taxes. Any unpaid costs and/or fines assessed pursuant to this subsection shall become a lien upon the property from the date of assessment thereof.

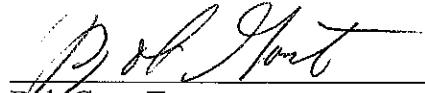
7. The provisions of this Resolution may be enforced by the Board, or the Board's designee, in any court of competent jurisdiction. The remedies established in this Resolution are cumulative and not alternative, and the Board may choose some or all of the remedies established in this Resolution, in addition to any other remedies available at law, at its sole discretion.

8. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this resolution or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution or any part thereof.

SHERWOOD IMPROVEMENT DISTRICT


George Shuler, President


Rick Nesbitt, Vice President / Secretary


Bob Gast, Treasurer