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Sedgwick County

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Legislation Details (With Text)

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Title: REQUEST TO CONSIDER ADDITION TO 2019 LEGISLATIVE PLATFORM: SUPPORT FOR LEGISLATION ALLOWING SEDGWICK COUNTY, AS AN URBAN AREA, THE POWER TO ABATE NUISANCE PROPERTIES IN A MANNER THAT WOULD AFFORD CONSTITUTIONAL DUE PROCESS.
Presented by: Chris W. Labrum, Director, MABCD.

RECOMMENDED ACTION: Add this item to the 2019 Legislative Platform.

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
1/16/2019	1	Board of Sedgwick County Commissioners	Approved	Pass

REQUEST TO CONSIDER ADDITION TO 2019 LEGISLATIVE PLATFORM: SUPPORT FOR LEGISLATION ALLOWING SEDGWICK COUNTY, AS AN URBAN AREA, THE POWER TO ABATE NUISANCE PROPERTIES IN A MANNER THAT WOULD AFFORD CONSTITUTIONAL DUE PROCESS.

Presented by: Chris W. Labrum, Director, MABCD.

RECOMMENDED ACTION: Add this item to the 2019 Legislative Platform.

The Board of County Commissioners established a Nuisance Abatement Code pursuant to Resolution No. 187-2001 on December 12, 2001. This built upon the existing Nuisance Code and included that the County could undertake a number of steps (complete with notice, a hearing, and an appeals panel) in order to take self-help measures and to clean-up those properties found in violation and subsequently not corrected by the property owner. This abatement would then be billed to the property owner or the cost assessed against the property. In 2012, in *Barnes v. Board of County Commissioners of Cowley County*, 47 Kan.App.2d 353 (2012), the Court of Appeals of Kansas held that counties cannot participate in the abatement of nuisances, nor can the costs of abating such nuisances be assessed against the property. In light of the holding in the *Barnes* case, the County's Nuisance Abatement Code could no longer be utilized as a matter of law and was not enforced as a matter of policy until it was repealed by Resolution No. 014-2018 effective January 31, 2018. The action also dissolved the Nuisance Appeals Board.

It is requested that consideration be given to permit counties with an urban designation the ability to enact a nuisance abatement code as they deem appropriate and in a manner that would afford constitutional due process.

Alternatives: To not approve the request to add nuisance abatement to the 2019 Legislative Platform.