

(Published in the *Sentinel Times* on the 15 day of July, 2020)

ORDINANCE NO. 20-07

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF GALENA, KANSAS ESTABLISHING A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY AND ADOPTING A PLAN FOR THE DEVELOPMENT OF HOUSING AND PUBLIC FACILITIES IN SUCH DISTRICT, AND MAKING CERTAIN FINDINGS IN CONJUNCTION THEREWITH REGARDING THE GALENA ESTATES RURAL HOUSING INCENTIVE DISTRICT RURAL HOUSING INCENTIVE DISTRICT

WHEREAS, K.S.A. 12-5241 *et seq.* (the "Act") authorizes any city incorporated in accordance with the laws of the state of Kansas (the "State") with a population of less than 60,000 located in a county with a population of less than 80,000 to designate rural housing incentive districts within such city; and

WHEREAS, prior to such designation the governing body of such city shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community; and

WHEREAS, after conducting such analysis, the governing body of such city may adopt a resolution making certain findings regarding the establishment of a rural housing incentive district and providing the legal description of property to be contained therein, and

WHEREAS, after publishing such resolution, the governing body of such city shall send a copy thereof to the Secretary of Commerce of the State (the "Secretary") requesting that the Secretary agree with the finding contained in such resolution; and

WHEREAS, if the Secretary agrees with such findings, such city may proceed with the establishment of rural housing incentive district within such city and adopt a plan for the development of housing and public facilities in the proposed district; and

WHEREAS, the City of Galena, Kansas (the "City") has an estimated population of approximately 3,085 as of the 2010 census, is located in Cherokee County, Kansas, which has an estimated population of approximately 21,603 as of the 2010 census, and therefore constitutes a city as said term is defined in the Act; and

WHEREAS, the Governing Body of the City has performed a Housing Needs Analysis dated effective as of February 4, 2014 (the "Analysis"), a copy of which is on file in the office of the City Clerk; and

WHEREAS, the Governing Body of the City has heretofore adopted Resolution No. 13-4 which made certain findings relating to the need for financial incentives relating to the construction of quality housing within the City, declared it advisable to establish a Rural Housing Incentive District pursuant to the Act and authorized the submission of such Resolution and a Housing Needs Analysis to the Kansas Department of Commerce in accordance with the provisions of the Act; and

WHEREAS, the Secretary of the Kansas Department of Commerce, pursuant to a letter dated April 16, 2013, authorized the City to proceed with the establishment of a Rural Housing Incentive District pursuant to the Act (the "District"); and

WHEREAS, the City has caused to be prepared a plan for the development or redevelopment of housing and public facilities in the proposed District in accordance with the provisions of the Act (the "Plan"); and

WHEREAS, the Plan includes:

1. The legal description and map required by subsection (a) of K.S.A. 12-5244;
2. The existing assessed valuation of the real estate in the proposed District, listing the land and improvement values separately;
3. A list of the names and addresses of the owners of record of all real estate parcels within the proposed District;
4. A description of the housing and public facilities project or projects that are proposed to be constructed or improved in the proposed District, and the location thereof;
5. A listing of the names, addresses and specific interests in real estate in the proposed District of the developers responsible for development of the housing and public facilities in the proposed District;
6. The contractual assurances, if any, the Governing body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentives projects in the proposed District;
7. A comprehensive analysis of the feasibility of providing housing tax incentives in the proposed District as provided in the Act, set forth the boundaries of the proposed District, provided a summary of the proposed Plan, called a public hearing concerning the establishment of the proposed District for February 5, 2020 at 6:30 PM and provided for notice of such public hearing as provided in the Act.

WHEREAS, the Governing Body previously adopted by Resolution No. 14-33, the below findings, which are being reaffirmed, readopted, and reapproved, as of the date below; and

WHEREAS, the Governing Body previously adopted a Development Plan by City Ordinance No 14-21 on November 1, 2014, which is being reaffirmed, readopted, and reapproved by the Governing Body in Resolution No. 2020-9 on June 1, 2020; and

WHEREAS, the Governing Body previously entered into a Development Agreement with MV Residential Development, LLC on October 12, 2015, which was reaffirmed, readopted, and reapproved by the Governing Body on June 1, 2020 as part of Resolution No. 2020-9; and

WHEREAS, the Governing Body and MVAH Partners, LLC have entered into an Amended and Restated Development Plan on June 1, 2020, amending, adopting, and approving the terms of the original Development Plan and Development Agreement; and

WHEREAS, a public hearing was held on July 6, 2020 after due published and delivered notice in accordance with the provisions of the Act; and

WHEREAS, upon and considering the information and public comments received at the public hearing, the governing body of the City hereby deems it advisable to make certain findings to establish the proposed District and to adopt the proposed Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GALENA, KANSAS:

Section 1. Findings. The Governing Body hereby finds that due notice of the public hearing conducted July 6, 2020 was made in accordance with the provisions of the Act.

Section 2. Creation of Rural Housing Incentive District. A Rural Housing Incentive District is hereby created within the City in accordance with the provisions of the Act, which shall consist of the described real property in the Development, an addition to the City of Galena, Cherokee County, Kansas as listed on Exhibit A. The boundaries of the District do not contain any property not referenced in Resolution No. Resolution 2020-9, which provided notice of public hearing on the creation of the District and adoption of the Plan.

Section 3. Approval of Development Plan. The Plan for the development or redevelopment of housing and public facilities in the District, as presented to the Governing Body this date, is hereby approved.

Section 4. Adverse Effect on Other Governmental Units. If, within 30 days following the conclusion of the public hearing on July 6, 2020, any of the following occurs, the Governing Body shall take action to repeal this Ordinance:

- a. The Board of Education of U.S.D. 499 determines by resolution that the District will have an adverse effect on such school district; or
- b. The Board of County Commissioners of Cherokee County, Kansas, determines by resolution that the District will have an adverse effect on such county.

As of this date, the City has not received a copy of any such resolution and is not aware of the adoption of any such resolution by the governing body of Cherokee County or U.S.D. 499.

Section 5. Reimbursement. The Act authorizes the City to reimburse the Developer for all or a portion of the costs of implementing the Plan through the use of property tax increments allocated to the City under provisions of the Act.

Section 6. Further Action. The Mayor, City Clerk and other officials and employees of the City, including the City Attorney, are hereby further authorized and directed to take such other actions as may be appropriate to accomplish the purposes of this Ordinance.

Section 7. Effective Date. This Ordinance shall be effective upon its passage by the Governing Body of the City of Galena, Kansas and publication of a summary of this Ordinance one time in the official City newspaper.

PASSED by the city commission and signed by the Mayor this 6th day of July, 2020.

CITY OF GALENA , KANSAS

By: 

Print: Lance Nichols, Mayor

ATTEST: (SEAL)

By: 

Name: Flora Charles, City Clerk

Exhibit A – Legal Description

LEGAL DESCRIPTION

Beginning at a point on the East Line of Government Lot Four (4), in the Southeast Quarter (SE ¼) Section Thirteen (13), Township Thirty-four (34) South, Range Twenty-five (25) East of the Sixth Principal Meridian, Cherokee County, Kansas, according to the United States Government Survey thereof, Three Hundred Thirty-three (333) feet South and Fifty (50) feet West of the Southeast Corner of Government Lot Three (3) in said Section 13, thence North Eight (8) degrees, Forty-three (43) minutes West, Two hundred fifteen (215) feet, thence South Eighty-one (81) degrees, Fifty-one (51) minutes West One hundred Thirty-two and Two-tenths (132.2) feet, thence South Forty-six (46) degrees, Two (2) minutes West, Three Hundred Sixty-one and Three-tenths (361.3) feet, thence East to the point of beginning; and

Beginning Thirty (30) feet West and Six Hundred Sixty (660) feet North of the Southeast Corner of Government Lot Four (4), Section Thirteen (13), Township Thirty-four (34) South, Range Twenty-five (25) East of the Sixth Principal Meridian, Cherokee County, Kansas, according to the United States Government Survey thereof, thence North Three Hundred Thirty (330) feet, thence West Four Hundred Thirty (430) feet, thence South Three Hundred Thirty (330) feet, thence East Four Hundred Thirty (430) feet to the place of beginning; and

Beginning Six Hundred Sixty (660) feet East and Four Hundred Sixty (460) feet North of the Southwest Corner of Government Lot Four (4), Section Thirteen (13), Township Thirty-four (34) South, Range Twenty-five (25) East of the Sixth Principal Meridian, Cherokee County, Kansas, according to the United States Government Survey thereof, thence North Two Hundred (200) feet, thence East to the Missouri-Kansas State line, thence South along said line a distance of Two Hundred (200) feet, thence West to the place of beginning;

EXCEPT FOR THE FOLLOWING:

Beginning 576 feet North and 30 feet West of the Southeast Corner of Government Lot 4 in Section 13, Township 34 South, Range 25 East of the 6th Principal Meridian, then North 250 feet, parallel to the East Section line, then West 200 feet parallel to the South Section line, then South 250 feet, then East 200 feet to the point of beginning.

SURVEY DESCRIPTION:

A PARCEL OF LAND IN GOVERNMENT LOT 4, IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 25 EAST, CHEROKEE COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 25 EAST, CHEROKEE COUNTY, KANSAS; THENCE ALONG THE EAST LINE OF SAID SECTION, NORTH 02°28'48" WEST, 459.96 FEET, TO THE POINT OF BEGINNING; THENCE LEAVING SAID EAST SECTION LINE, SOUTH 88°35'53" WEST, 479.48 FEET; THENCE NORTH 02°44'03" WEST, 200.00 FEET; THENCE NORTH 88°35'53" EAST, 20.36 FEET; THENCE NORTH 02°28'48" WEST, 186.09 FEET; THENCE NORTH 88°35'53" EAST, 460.01 FEET, TO THE AFOREMENTIONED EAST LINE OF SAID SECTION; THENCE ALONG SAID EAST SECTION LINE, SOUTH 02°28'48" EAST, 386.07 FEET, TO THE POINT OF BEGINNING; ALL LYING IN THE SOUTHEAST CORNER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 25 EAST, CHEROKEE COUNTY, KANSAS; CONTAINING 4.17 ACRES, MORE OR LESS. BEARINGS BASED ON GRID NORTH OF THE KANSAS COORDINATE SYSTEM OF 1983, SOUTH ZONE. SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS AND RESERVATIONS OF RECORD. CONDITIONS AND MONUMENTS ARE AS SHOWN ON ANDERSON ENGINEERING, INC. DRAWING NUMBER JOP-100-3571.