

ORDINANCE NO. 84-5

AN ORDINANCE RELATING TO ABANDONED, WRECKED, JUNKED, AND DISMANTLED MOTOR VEHICLES; PROHIBITING THE STORAGE, REPAIR, OR DISMANTLING THEREOF ON PUBLIC OR PRIVATE PROPERTY; DECLARING THE SAME TO BE A NUISANCE; PROVIDING FOR THE ABATEMENT OF SUCH NUISANCES; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALING ORDINANCE 985 IN ITS ENTIRETY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GALENA:

SECTION 1: TITLE: This ordinance shall be known and may be cited as the "Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicle Ordinance".

SECTION 2: DEFINITIONS: For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "City" is the City of Galena, Kansas.

(b) "Motor Vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor-bikes, motorscooters, trucks, tractors, go-carts, golf carts, campers, and trailers.

(c) "Junked Motor Vehicle" is any motor vehicle, as defined by subsection (c) of Section (2), which does not have lawfully affixed thereto both an unexpired license plate or plates and the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

(d) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(e) "Private Property" shall mean any real property within the City which is privately owned and which is not public property as defined in this section.

(f) "Public Property" shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

SECTION 3: STORING, PARKING OR LEAVING DISMANTLED OR OTHER SUCH MOTOR VEHICLES PROHIBITED; AND DECLARED NUISANCE; EXCEPTIONS.

No person shall park, store, leave, or permit the parking storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition whether attended or not, upon any public or private property within the City of Galena for a period of time in excess of seventy-two(72) hours. The presence of an abandoned vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this ordinance. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the City and properly operated in the appropriate business zone, pursuant to the zoning laws of the City, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes.

SECTION 4: NOTICE TO REMOVE. Whenever it comes to the attention of the Police Department that any nuisance as defined in Section (3) of this ordinance exists in the City of Galena, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance, and requesting its removal in the time specified in this ordinance.

- SECTION 5: RESPONSIBILITY FOR REMOVAL. Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the City, the owner, or occupant of the private property where same is located, shall be liable for the expenses incurred.
- SECTION 6: NOTICE PROCEDURE. The Chief of Police of the City shall give notice of removal to the owner or occupant of the private property where it is located, at least seven (7) days before the time of compliance. It shall constitute sufficient notice, when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner or occupant of the private property at his last known address.
- SECTION 7: CONTENT OF NOTICE. The notice shall contain the request for removal within the time specified in this ordinance, and the notice shall advise that upon failure to comply with the notice to remove, the City or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property.
- SECTION 8: REQUEST FOR HEARING. The persons to whom the notices are directed, or their duly authorized agents may file a written request for hearing before the City Council of the City of Galena or its designee within the seven (7) day period of compliance prescribed in Section (6) for the purpose of defending the charges by the City.
- SECTION 9: PROCEDURE FOR HEARING. The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least seven (7) days in advance thereof. At any such hearing the City and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.
- SECTION 10: REMOVAL OF MOTOR VEHICLE FROM PROPERTY. If the violation described within the seven (7) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the Council of the City of Galena, or its designee, the Chief of Police or his designee shall have the right to take possession of the junked motor vehicle and removed it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this ordinance.
- SECTION 11: NOTICE OF REMOVAL. Within forty-eight (48) hours of the removal of such vehicle, the Chief of Police shall give notice to the registered owner of the vehicle, if known, and also, to the owner or occupant of the private property from which the vehicle was removed, that said vehicle, or vehicles, has been impounded and stored for violation of this ordinance. The notice shall give the location of where the vehicle or vehicles, is stored, and the costs incurred by the City for removal.
- SECTION 12: DISPOSITION OF VEHICLES. Upon removing a vehicle under the provisions of Section (10), the City shall after ten (10) days cause it to be appraised. If the vehicle is appraised at \$75.00 or less, the Chief of Police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any and stating the location and appraised value of the vehicle. The Chief of Police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over \$75.00, the Chief of Police shall give notice of public sale not less than thirty (30) days before the date of the proposed sale.
- SECTION 13: CONTENTS OF PUBLIC SALE NOTICE. The notice of sale shall be published in the official City newspaper at least three (3) consecutive weeks before said sale and shall contain the following in said notice:
- (a) The sale is of abandoned property in the possession of the City.
 - (b) A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle.
 - (c) The terms of the sale.

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(continued): (d) The date, time and place of the sale.

SECTION 14: PUBLIC SALE. The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale in duplicate, the original of which to be given to the purchaser, and a copy thereof to be filed with the City Clerk and Police Department of the City. Should the sale for any reason be invalid, the City's liability shall be limited to the return of the purchase price.

SECTION 15: REDEMPTION OF IMPOUNDED VEHICLES: The owner of any vehicle seized under the provisions of this ordinance may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the City of Galena of such sum as may be determined and fixed for the actual and reasonable expense of removal, any preliminary sale advertising expenses and any other fees which may be required in compliance with this ordinance.

SECTION 16: LIABILITY OF OWNER OR OCCUPANT. Upon the failure the owner or occupant of property on which abandoned vehicles have been removed by the City to pay the unrecovered expenses incurred by the City in such removal, a lien shall be placed upon the property for the amount of such expenses.

SECTION 17: PENALTY. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than \$200.00. Each act in violation of any of the provisions hereof shall be deemed a separate offense.

SECTION 18: Ordinance No. 985 is hereby repealed in its entirety and any other ordinance in conflict herewith.

SECTION 19: EFFECTIVE DATE. This ordinance shall take effect from and after its publication in the official City newspaper, The Galena Sentinel-Times.

PASSED BY THE GOVERNING BODY THIS 17th DAY OF April, 1984.

APPROVED BY THE MAYOR:

James Bankson
James Bankson

ATTEST:

Barbara Wilkins
Barbara Wilkins, City Clerk

(SEAL)