

AN ORDINANCE DEFINING A PUBLIC NUISANCE, PROVIDING FOR THE MEANS OF ABATING A PUBLIC NUISANCE, AND PROVIDING PENALTIES FOR MAINTAINING A PUBLIC NUISANCE.

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

SECTION 1: A public nuisance is any condition which injures or endangers the public health, safety or welfare, or any condition which unreasonably annoys or disturbs the general public. A public nuisance includes, but is not limited to, allowing tall grass and weeds on and around the premises; leaving worthless or abandoned furniture and appliances outside; keeping of pigs, horses, cattle, goats, chickens, ducks, and similar farm animals; allowing dead trees to remain in the yard; allowing trash and other debris to accumulate on and around the premises; and allowing an open sewer to exist.

SECTION 2: Any public officer who reasonably believes he has encountered a public nuisance shall ascertain the names of the resident of the property and the owner of the property. The owner of the property shall be that person shown as the last owner of record of the property according to the deed records at the Cherokee County Courthouse unless the identity of the owner can otherwise be clearly ascertained. The public officer shall then issue either a written warning to both the resident and the owner to abate the nuisance within seventy-two (72) hours or a written citation to appear in Municipal Court at a time certain to answer the charge of allowing a public nuisance to exist. The public officer may use his discretion in determining whether a warning or citation is issued. However, no person shall be allowed more than one written warning in any twelve-month period.

SECTION 3: If the public officer issues a written warning, he shall return promptly at the end of the seventy-two hours to determine if the nuisance has been abated. If it has not been completely abated, he shall issue a citation to appear in Municipal Court at a time certain to answer the charge of allowing a public nuisance to exist. The public officer shall not extend the time in which to abate the nuisance, and he must issue a citation if the nuisance has not been completely abated.

SECTION 4: Upon issuing a citation hereunder, the public officer shall cause sufficient visual evidence to be taken to fully document the nature and extent of the public nuisance and shall appear in Municipal Court with said evidence.

SECTION 5: If it is impossible to immediately serve the citation on either the resident or the owner of the property, the public officer shall forthwith present his affidavit to the Municipal Judge setting forth the alleged violations, the evidence thereof, and the alleged offender. It shall then be sufficient to mail by certified mail, return receipt requested, a summons signed by the Judge of the Municipal Court to said person's last known address, directing said person to appear in Municipal Court at a time certain to answer the citation. If the person fails to appear, the Municipal Judge may issue a warrant based upon the affidavit.

SECTION 6: If it is impossible to bring both the resident and the owner to Municipal Court at the same time, the Municipal Court shall proceed against the party before it.

SECTION 7: The resident and the owner are jointly responsible for insuring that no public nuisance is allowed to exist on the property, and it shall not be a defense for either to attempt to shift the responsibility to the other party.

SECTION 8: Each day that a public nuisance is allowed to exist can be the subject of a separate citation and the imposition of separate penalties.

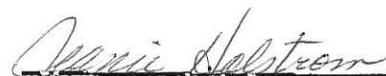
SECTION 9: Upon conviction of allowing a public nuisance to exist, the Municipal Judge shall fine the offender \$100.00 plus assess applicable court costs for each violation and shall order the offender to abate the nuisance forthwith. The Municipal Judge shall direct the public officer to ascertain whether the order to abate was carried out and to make a report thereof to the Municipal Court at its next regularly scheduled session. The Municipal Judge shall order the offender to appear at the next regularly scheduled session of the Municipal Court to respond to the report of the public officer. If at that time the Municipal Judge determines that the order to abate was not carried out promptly and in good faith, he shall commit the offender to jail for a period not exceeding thirty (30) days. If the offender continues to fail to carry out the order of the Municipal Court, the Municipal Judge shall commit the offender to jail for a period not exceeding thirty (30) days for each failure.

SECTION 10: This ordinance shall take effect upon publication in the official city newspaper.

PASSED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR THIS 6th DAY OF September, 1994.


DALE OGLESBY, MAYOR

ATTEST:


JEANIE HOLSTROM, CITY CLERK

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