

ORDINANCE NO. 94- 21

AN ORDINANCE FOR THE CORRECTION OF CONDITIONS IN STRUCTURES WHICH MAKE SUCH STRUCTURES UNSAFE OR UNFIT FOR HUMAN USE OR HABITATION AND PROVIDING A PROCEDURE FOR THE CORRECTION OF SAME AND PROVIDING PENALTIES FOR FAILURE TO COMPLY.

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

SECTION 1: For the purposes of this ordinance, certain terms are defined as follows:

1. Structure--Any construction or production or piece of work built up or composed of parts joined together in some definite manner and intended for entry by human beings, including houses, buildings, apartments, barns, sheds, garages, mobile homes and travel trailers, and further including all devices intended for habitation by human beings for residential or business purposes.

2. Unsafe or unfit condition--Any defect, damage or delapidation in any structure which unreasonably increases the hazards of fire, accident, disease or other calamity to any human being.

SECTION 2: Any public officer who reasonably believes he has encountered an unsafe or unfit condition in any structure which represents an unreasonable risk to the health or safety of any human being shall immediately ascertain the name of the owner of the structure and the person responsible for repairs to the structure. The owner 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.

SECTION 3: The public officer shall issue either a written warning to both the owner and the person responsible for the repair of the structure to correct the problem within seventy-two (72) or a written citation to appear in Municipal Court at a time certain to answer the charge of allowing an unfit or unsafe condition to exist which unreasonably poses a threat to the health or safety of any human being. The public officer may use his discretion in determining whether a warning or citation may be issued. However, no person shall be allowed more than one written warning in any twelve-month period for the same structure.

SECTION 4: If the public officer issues a written warning, he shall return promptly at the end of the seventy-two hours to determine if the condition has been corrected. If it has not been completely corrected, he shall issue a citation to appear in Municipal Court. The public officer shall not extend the time in which to correct the condition, and he must issue a citation if the condition has not been completely corrected.

SECTION 5: Upon issuing a citation hereunder, the public officer shall cause sufficient visual evidence and other evidence to be taken to fully document the condition and shall appear in Municipal Court with said evidence.

SECTION 6: If it is impossible to immediately serve the citation on either the owner or the person responsible for repairs to 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 7: If it is impossible to bring both the owner and the person responsible for the repairs to Municipal Court at the same time, the Municipal Court shall proceed against the party before it.

SECTION 8: The owner and the person responsible for the repairs are jointly responsible for insuring that no unfit or unsafe condition exists, and it shall not be a defense for either to attempt to shift the responsibility to the other party. Additionally, in a residential rental situation, it shall not be a defense to attempt to shift the responsibility to the residential tenant. In a commercial rental situation, it shall not be a defense to attempt to shift the responsibility to the commercial tenant unless this is done in a written lease signed by the tenant.

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SECTION 9: Each day that the unsafe or unfit condition is allowed to exist can be the subject of a separate citation and the imposition of separate penalties.

SECTION 10: Upon conviction of allowing an unsafe or unfit condition to exist, the Municipal Judge shall fine the offender \$100.00 plus assess the applicable court costs for each violation and shall order the offender to correct the condition forthwith. the Municipal Judge shall direct the public officer to ascertain whether the order to correct 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 correct 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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