

(Published on the 10th day of March, 2010, in the Official City Newspaper)

ORDINANCE NO. 10-4

AN ORDINANCE REQUIRING EMERGENCY POWER IN ADULT CARE HOMES FOR HEATING AND COOLING OF OCCUPANTS; DESCRIBING THE CONDITIONS THEREOF; AND ESTABLISHING SUCH REQUIREMENTS BE COMPLETED BY SEPTEMBER 30, 2010.

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

Section 1. Findings.

The City Council of Galena, Kansas, upon due consideration of the matter finds that enacting the legislation below would promote the health, welfare, and safety of the public and its citizenry, and therefore the passage of this enactment should be made requiring that adult care homes provide or assure that emergency power is supplied to its facilities for heating and air conditioning purposes.

The City Council of Galena, Kansas upon due consideration of the matter finds that enacting the legislation below would protect the following public policy interests, including, but not limited to the following: mitigating the negative effects upon the health, welfare and safety of the patients and occupants of adult care homes whereby due to inclement weather, ice storms, or other event or disaster, there is caused the interruption of appropriate heating and cooling to adult care facilities where such patients and occupants are staying, residing or employed due to inclement weather and ice storms.

The adverse effects upon citizens in adult care homes that do not supply or assure emergency power for heating and cooling is a legitimate health concern of the City Council which requires reasonable regulation of such adult care homes in order to protect the health, welfare and well-being of its citizens.

The City Council, finds it should adopt this ordinance related to supplying emergency power in adult care homes for the heating and cooling of its patients and occupants.

Purpose and Intent. It is the purpose of this Ordinance to regulate and promote the health, safety, and general welfare of the citizens of the City who are patients and occupants of adult care homes in order to assure an adequate supply of heating and cooling for the benefit of such patients and occupants thereof.

Section 2. Sections 4-1301 through 4-1307 are hereby added to the Code of the City of Galena to read as follows:

4-1301 DEFINITIONS. "Adult care home" shall include the following facilities,
as defined by Kansas Administrative Regulation 28-39-144 (1) through 28-39-144 (5), specifically: nursing facility, nursing facility for mental health, an intermediate care facility for the mentally retarded, an assisted living facility, and a residential health care facility. This Ordinance shall apply to all adult care homes, as defined, in the city of Galena, Kansas.

4-1302 GENERATORS REQUIRED FOR HEATING AND VENTILATION. Adult care homes must have one or more on-site

electrical generators which are capable of providing reasonable emergency heating and cooling for the patients and occupants of adult care homes, or, in the alternative, the adult care home must have a written contract with a supplier that assures such generator or generators, as required, will be supplied to the adult care home within 5 hours of a power interruption.

Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. In the event that existing equipment does not sustain automatic transfer, the adult care home shall be required to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source. All emergency power transfer switches shall be labeled as such. Switches affecting the heating and cooling systems shall be labeled as such.

4-1303 FUEL REQUIREMENTS. The emergency power system shall be supplied with a minimum of 24 hours of propane, gasoline or diesel fuel located at the site of the adult care home to supply the alternative power source required hereunder. The quantity shall be based on its reasonably expected or known connected load consumption during power interruptions. In addition, an adult care home shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions. Such fuel distributor shall be capable of supplying fuel within the expiration of the above-stated 24 hours period.

4-1304 REGULAR TESTING OF EMERGENCY POWER SOURCE REQUIRED. The emergency power system, including generators, shall be inspected weekly, and exercised under actual load and operating temperature conditions for at least 30 minutes, once each month, including for automatic and manual transfer of equipment. The generator shall be exercised by trained facility staff familiar with the operation of the system. Instructions for the operation of the emergency power system shall be located upon the adult care home facility premises in a location sufficient to assure prompt access to the aforesaid instructions.

4-1305 INSPECTIONS. Adult care homes shall permit any official of the city of Galena, Kansas, acting in the performance of their duties, to inspect the premises, as necessary, to ensure the adult care home is complying with all applicable regulations created hereunder. A copy of any contract required to be maintained by this Ordinance shall be immediately available for inspection upon request by such city official.

An inspection to determine compliance with Sections 13-101 through 13-107 shall occur within 60 days of the effective date of this ordinance to make a determination of the status of compliance issues and a written report shall be provided by the inspector to the inspected adult care home within 30 days after inspection. A copy of such report shall also be provided to the City Clerk's Office for public inspection. The city inspector shall be primarily responsible for enforcing Sections 13-101 through 13-107 of the Code, and the event the city inspector is not able to do so, the code enforcement officer shall so perform the duties designated herein to the city inspector

4-1306 COMPLIANCE DEADLINE. All adult care homes shall comply with the provisions of this Ordinance by September 30, 2010. Any adult care home not in compliance with this Ordinance by such

date shall apply to the City Council by August 31, 2010, for any desired extension of time to comply with this Ordinance. No extension of time shall be granted for a period longer than two months from the existing deadline and such extension shall be granted only upon a showing of hardship.

4-1307 PENALTIES. Any person or legal entity violating any of the terms of Sections 13-102, 13-103 or 13-106 of this Ordinance shall be subject to a fine not to exceed \$2500.00 for each violation thereof. Any person or legal entity violating the terms of Sections 13-104 or 13-105 of this Ordinance shall be subject to a fine not to exceed \$1000.00 for each violation thereof. Upon each day that a violation of the terms of this Ordinance occurs, a separate offense shall have been committed.

Section 3. Savings Clause.

Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereto appertaining shall continue in full force and effect.

Section 4. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 5. Repeal.

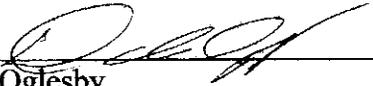
The provisions of any previously enacted Ordinance that are inconsistent herewith are hereby repealed.

Section 6. Effective Date.

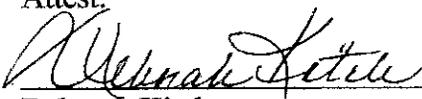
This Ordinance shall take effect and be in full force from and after its passage and publication once in the official city newspaper.

Passed and approved by the City Council of the City of Galena, Kansas, this 1st day of March, 2010.

Executed by the Mayor of the City of Galena, Kansas, this 1st day of March, 2010.


Dale Oglesby
Mayor of Galena, Kansas

Attest:


Deborah Kitch
City Clerk, Ordinance 10-4