

(First Published In The Dighton Herald on _____)

RESOLUTION NO. 2018-1

A RESOLUTION PROVIDING FOR THE ABATEMENT OF HEALTH NUISANCES WITHIN ANY UNINCORPORATED TOWN IN LANE COUNTY.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, KANSAS:

SECTION 1. NUISANCES UNLAWFUL; DEFINED: It shall be unlawful for any person to maintain or permit any nuisance within any unincorporated town in the Lane County, without limitation, as follows:

- a. Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- b. All dead animals not removed within 24 hours after death;
- c. Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
- d. All stagnant ponds or pools of water;
- e. All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
- f. Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed there from;
- g. All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
- h. Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the County.

SECTION 2. PUBLIC OFFICER: Bill Barnett shall serve as the public officer charged with the administration and enforcement of this article.

SECTION 3. COMPLAINTS; INQUIRY AND INSPECTION: The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons or the public officer, stating that a nuisance exists and describing the same and where located. The public officer may make such inquiry and inspection when he or she

observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

SECTION 4. RIGHT OF ENTRY: The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

SECTION 5. ORDER OF VIOLATION:

- a. The Board of County Commissioners shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 1, an order stating violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- b. If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

SECTION 6. SAME; CONTENTS: The order shall state the condition which is/are in violation of section 1. The order shall also inform the person corporation, partnership or association that:

- a. He, she or the shall have 10 days from the receipt of the order to abate the condition(s) in violation of section 1.; provided, however, that the Board of County Commissioners shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 1, or;
- b. He she or they have 10 days from the receipt or the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by section 9.

- c. Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 7 and/or abatement of the condition(s) by the city as provided by section 8.

SECTION 7. FAILURE TO COMPLY; PENALTY: Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a Petition in the District Court of the County against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 1, be fined in an amount not to exceed \$1,000 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

SECTION 8. ABATEMENT: In addition to, or as an alternative to prosecution as provided in section 7, the public officer may seek to remedy violations of this article in the following manner: If a person to whom an order has been served pursuant to section 5 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Board of County Commissioners within the time periods specified in section 6, the public officer may present a resolution the Board of County Commissioners for adoption authorizing the public officer or other agents of the county to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution has further provided that the costs incurred by the County shall be charged against the lot or parcel of ground on which the nuisance was located as provide in section 10. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- a. Personal service upon the person in violation;
- b. Certified mail, return receipt requested; or
- c. In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the County Clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official County newspaper and by posting a copy of the resolution on the premises where such condition exists.
- d. If the owner or the agent of the owner of the property has failed or refused to accept service of a resolution sent pursuant to this section during the preceding twenty-four month period, the Board of County Commissioners may provided notice of the issuance of a resolution to abate or remove a nuisance from such property by other reasonable methods, include but not limited to, conspicuously posting notice of such resolution on the property, personal notification by telephone communication or first class mail. Provided, if the property is unoccupied and the owner is a nonresident of the

county, notice provided by this section shall be given by telephone communication or first class mail.

SECTION 9. HEARING: If a hearing is requested within the 10 day period as provided in section 6, such request shall be made in writing to the Board of County Commissioners. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the Board of County Commissioners or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel and the person and the County may introduce such witnesses and evidence as is deemed necessary and proper by the Board of County Commissioners or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the Board of County Commissioner or its designated representative shall be prepared in resolution form, adopted by the Board of County Commissioners and the resolution shall be served upon the person in the manner provided in section 8.

SECTION 10. COSTS ASSESSED: If the Board of County Commissioners abates or removes the nuisance pursuant to section 8, the Board of County Commissioners shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the County, which costs shall include a reasonable administration fee. The notice shall also state that the payment is due within 30 days following receipt of the notice. The Board of County Commissioners also may recover the cost of providing notice, including any postage required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the costs incurred by the County shall be assessed as special assessments and charged against the property on which the nuisance was located. The County Clerk shall extend the same on the tax rolls of the County against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the County as County taxes are collected and paid.


PASSED AND APPROVED UNANIMOUSLY on March 5, 2018, by the Board of County Commissioners, Lane County, Kansas.

DIANA PARIS

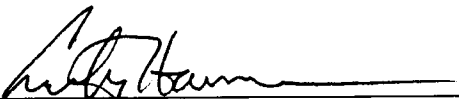


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THOMAS J. BENNETT


Member

CURTIS HANNA


Member

ATTEST:

STEPHANIE BENZEL


County Clerk – Lane County, Kansas

(SEAL)

NOTE TO PUBLISHER: Please publish once in your newspaper on Wednesday, _____ . Further, please submit your Affidavit of Publication along with your billing statement to Stephanie Benzel, County Clerk, Lane County Courthouse, PO Box 788, Dighton KS 67839.
