

ORDINANCE NO. 152

**AN ORDINANCE PROVIDING FOR REPEAL
OF THE EXISTING NUISANCE ORDINANCE AND ENACTING IN
PLACE THEREOF A NEW ORDINANCE GOVERNING
ABATEMENT OF NUISANCES.**

WHEREAS, the Missouri General Assembly has adopted a statute, R.S. Mo. 67.398, regulating weeds, vegetation, and other debris; and

WHEREAS, this community needs to take advantage of the provisions of that law, and provide for a simplified and easy way to deal with debris, trees, weeds and vegetation that create a nuisance,

NOW THEREFORE, be it ordained by the Board of Alderman of the City of Galena, Missouri, as follows:

SECTION ONE: Ordinance Number 117 is hereby repealed and a new Ordinance is hereafter enacted in place thereof.

SECTION TWO: Any condition on any lot or land that has the presence of debris of any kind is hereby declared to be public nuisance, subject to abatement. As used in this Ordinance debris is defined to include weeds, cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, or any flammable material. The word "debris" also includes any other material which is found on any lot or land that is unhealthy or unsafe, provided (1) it is described in detail in the notice required in Section Three below, and (2) the definition is not challenged by requesting a formal hearing as provided in Section Three below.

SECTION THREE: Enforcement of this Ordinance shall be the responsibility of the City Law Enforcement Officers. Enforcement shall commence by providing notice to the owner or person in possession of the property, of the nuisance condition existing on such property. The notice may be delivered by personal service, by certified mail, or by ordinary mail. (If sent by ordinary mail, there will be a rebuttable presumption that the letter was delivered 5 days after the date it was sent.).

A. The notice shall generally describe the nature of the nuisance, the location of the property (using the mailing or popular address rather than a legal description, when reasonably possible to do so), and ordering the property owner or person in possession of said property to, within a period of seven days from the receipt of the notice, abate the nuisance.

B. Any owner or person in possession of said property who wishes to challenge the order of abatement may do so, provided within the seven day period such owner or person requests a hearing on the validity of the order under the State Administrative Procedure Act, RSMo Chapter 536. If no such request is made within that time period, the order becomes final and is not subject to challenge elsewhere. If such request is made, the hearing shall be conducted by the Board of Alderman.

C. The request for a hearing must be in writing, but otherwise no particular formality is required. Notice to the property owner or person in possession of said property of the right to request such hearing shall be given by including a copy of this ordinance with any notice sent under authority of this section. Once a request for a hearing is received, the hearing shall be conducted in accordance with the "contested case" provisions of the State Administrative Procedure Act. The City Attorney shall represent the City at such a hearing.

SECTION FOUR: Abatement of Nuisance. If the nuisance is present on the property seven days after receipt of the notice by the property owner or person in possession of said property, the enforcement officer shall cause the same to be abated. (The costs of abatement may include a fee for the city's costs in administering this Ordinance, which fee shall not exceed \$100.00.) The enforcement official shall certify the cost of such abatement to the city clerk or other officer in charge of finance who shall cause the certified costs to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, and shall be collected in the same manner and procedure as for collecting real estate taxes.

SECTION FIVE: Violation an Offense. An owner or person in possession of said property who fails to remove a nuisance within 7 days of being notified to do so by the notice/abatement order described in Section Three above shall be guilty of an offense and may at the option of the city be charged in Municipal Court with the offense of "failure to abate a nuisance." "Failure to abate a Nuisance" is hereby declared to be punishable by a fine of up to \$500.00 or imprisonment for up to six (6) months or by both such fine and imprisonment.

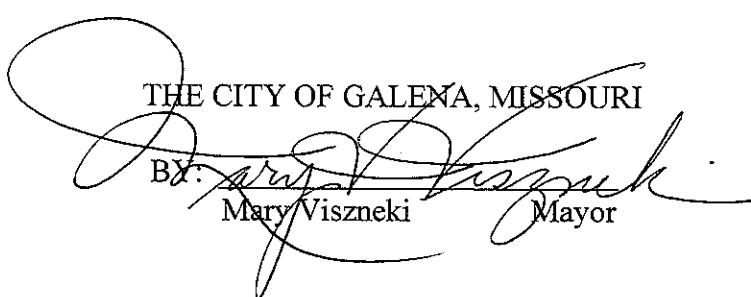
PASSED AND APPROVED this 7th day of September, 1999 with the following Aldermen

voting "Aye": Nancy Barnhart, Joseph "Joe" Templeton, Carol Calkins and Sherry Dickerson and the following

Aldermen voting "Nay": None

THE CITY OF GALENA, MISSOURI

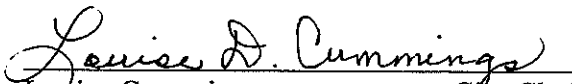
BY:


Mary Viszneki

Mayor

(SEAL)

ATTEST:


Louise Cummings City Clerk