

ORDINANCE #273

AN ORDINANCE ESTABLISHING REGULATIONS AND PENALTIES
REGARDING HEALTH NUISANCES AND REPEAL OF ORDINANCE 258.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE
CITY OF WALTON, KANSAS:

Section 1: NUISANCES UNLAWFUL: DEFINED. It shall be unlawful for any person to maintain any nuisance within the city as defined, 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) Iceboxes, stove, washer, dryer, or household appliance kept on the premises outside;
- (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 city.

Section 2: 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 stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which may appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall present his findings to the governing body and the governing body may pass a resolution ordering that the nuisance be abated by the owner.

Section 3: RIGHT OF ENTRY. It shall be a violation of this code to deny the public officer 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 4: . ORDER., to the last known address of the owner. Any person found by the governing body to be in violation of Section 1 shall be served the resolution making such finding and the Order to abate the nuisance. The Resolution shall be served on the owner or agent in charge of such property by certified mail, postage pre-paid, return receipt requested or by personal service, or if the property is unoccupied and the owner is a nonresident then by mailing the Resolution by certified mail, return receipt requested

If the owner or agent of the owner of the property has failed to accept deliver or otherwise failed to effectuate receipt of a Resolution sent pursuant to this ordinance 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 in the manner provided in this subsection or the governing body may provide notice of the Resolution by such methods including, but not limited to, door hangers, conspicuously posting notice of such order 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 5: SAME; CONTENTS. The Resolution shall state the condition(s) which is (are) in violation of Section 1. The Resolution shall also inform the person that:

- (a) He, she or they shall have 10 days from the date of serving the Resolution to abate the condition(s) in the violation of Section 1; or
- (b) He, she, or they have 10 days from the date of serving the Resolution to request a hearing before the governing body as provided by Section 8
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 6 and/or abatement of the condition(s) by the city as provided by Section 7.

Section 6: FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the Resolution to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provision of Section 1, be fined in an amount not to exceed \$100.00 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 7: ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 6, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a Resolution has been sent pursuant to Section 4 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 5, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of the 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or

parcel of ground on which the nuisance was located as provided in Section 9. 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) Service by certified mail, postage pre-paid, 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 city clerk, and the serving of the resolution shall be made by publishing the same once a week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

Section 8: HEARING. If a hearing is requested within the 10 day period as provided in Section 5, such request shall be made in writing to the governing body. 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 before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city 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 city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in Section 7.

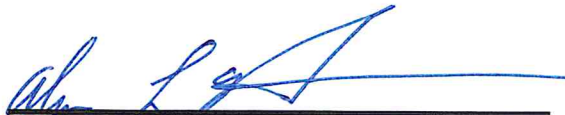
Section 9: COSTS ASSESSED. If the city abates the nuisance pursuant to Section 7, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city shall give notice to the owner or agent by certified mail, return receipt requested, of the total cost of such abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The city also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement is not paid within the 30 days following receipt of such notice, the City Clerk shall at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

Section 10: Ordinance 258 is hereby repealed.

Section 11. This ordinance shall take effect and be in force from and after publication in the official newspaper of the City of Walton, Kansas.

PASSED AND APPROVED by the Governing Body of the City of Walton, Kansas,

this 21st day of July, 2003.



Al Heine, Mayor

ATTEST:



Koni Jones, City Clerk

