

RESOLUTION NO. 19-11

A RESOLUTION ADOPTING THE PROPOSED AMENDMENT FROM THE WOODSON COUNTY JOINT PLANNING COMMISSION RELATED TO THE ABATEMENT OF NUISANCES

BE IT RESOLVED BY THE GOVERNING BODY OF WOODSON COUNTY:

WHEREAS, the Woodson County Board of County Commissioners recognizes the need for the ability to enforce the abatement of nuisances on property within the County;

WHEREAS, the Woodson County Joint Planning Commission has proposed an amendment that would allow the County to enforce such abatement and handling of nuisances or nuisance property.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF WOODSON COUNTY, KANSAS:

Section 1: That Article 34 of the Zoning Regulations regulating Woodson County, Kansas and the cities of Neosho Falls, Toronto, and Yates Center, Kansas shall be amended by adding a Section 106 as follows:

34-106 Abatement of nuisances; notice; assessment and collection of costs; procedure; disposition of motor vehicles

- (a) The governing body of Woodson County may have removed or abated from any lot or parcel of ground within the county any and all nuisances, including rank grass, weeds or other vegetation. The governing body may have drained any pond or ponds of water, or have removed or abated any and all nuisances, at the cost and expense of the owner of the property on which the nuisance is located, whenever the county or joint board of health or other agency as may be designated by the governing body of Woodson County files with the Woodson County Clerk its statement in writing that such nuisance, rank vegetation or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of Woodson County, or of any neighborhood, family or resident of the County. The governing body of Woodson County, by resolution, also may make such determination.
- (b) Except as provided by subsection (c), the governing body of Woodson County shall order the owner or agent of the owner of the property to remove and abate from the property the thing or things therein described as a nuisance within a time, not exceeding 10 days, to be specified in the order. The governing body of Woodson County shall grant extensions of such ten-day time period if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance. The order shall state that before the expiration of the waiting period or any extension thereof, the recipient thereof may request a hearing before the governing body or its designated representative. 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.

- (c) If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body of Woodson County may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection. Except as specifically provided in this subsection, the governing body may provide notice of the order 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.

- (d) If the owner or agent fails to comply with the requirement of the order for a period longer than that named in the order, Woodson County shall proceed to have the things described in the order removed and abated from the lot or parcel of ground. If Woodson County abates or removes the nuisance, the County 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 County. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. Woodson County also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the thirty-day period, the cost shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to Woodson County as other county taxes are collected and paid. Woodson County may pursue collection by levying a special assessment, but only until the full cost and any applicable interest has been paid in full.

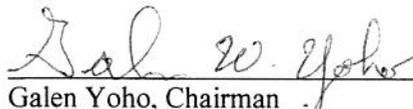
- (e) Woodson County may remove and abate from property other than public property or property open to use by the public a motor vehicle determined to be a nuisance. Disposition of such vehicle shall be in compliance with the procedures for impoundment, notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. If a public auction is conducted, but no responsible bid received, Woodson County may file proof thereof with the division of vehicles, and the division shall issue a certificate of title of such motor vehicle to the County. Any person whose motor vehicle has been disposed of pursuant to this subsection shall be eligible for a refund of

the tax imposed pursuant to K.S.A. 79-5101 et seq., and amendments thereto. The amount of such refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

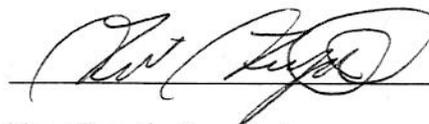
- (f) In addition to the abatement powers of Woodson County as described in this Section, failure by the owner, occupant, or agent in charge of the property to observe notice that a violation of this Section exists, and abate or remove any nuisance, may result in the filing by the County of criminal charges for non-compliance. The Sheriff of Woodson County or any Deputy of the Sheriff is authorized to issue citations for such charges. Conviction for non-compliance shall be a misdemeanor and may result in a fine of \$100 per day of non-compliance with a maximum fine of \$500 per day after seven (7) days of non-compliance as authorized by K.S.A. 19-2963.
- (g) Woodson County is indemnified of any cost of environmental damage caused by any nuisance the County shall abate. The cost of any environmental damage caused by a nuisance shall rest solely with the owner of the property upon which the nuisance was abated from.

Section 2. This amendment shall become effective as of the date after which any notice shall be provided by publication or otherwise.

Adopted this 19th day of November 2019.

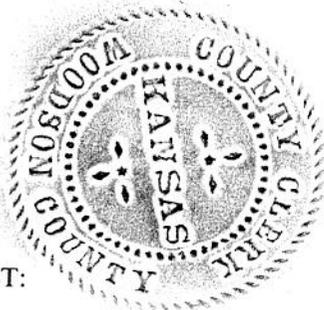


Galen Yoho, Chairman

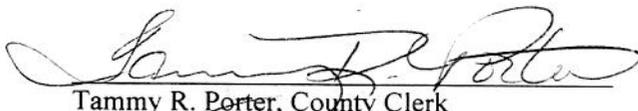


Trent Forsyth, Commissioner

Monty Barnett, Commissioner

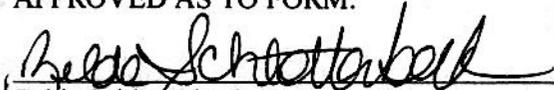


ATTEST:



Tammy R. Porter, County Clerk

APPROVED AS TO FORM:


Zelda Schlotterbeck, County Attorney