

BOARD OF COUNTY COMMISSIONERS
OF
FRANKLIN COUNTY, KANSAS

RESOLUTION NO. 06-33

A RESOLUTION CONTROLLING THE ABATEMENT OF NUISANCES,
AND THE COLLECTION OF COSTS FOR SAID ABATEMENT
ON FRANKLIN COUNTY, KANSAS PROPERTIES.

WHEREAS, K.S.A. 19-101 establishes every county in Kansas, including Franklin County, Kansas, as a body corporate and politic.

WHEREAS, K.S.A. 19-101a establishes Franklin County as having home rule powers, or the ability to transact all county business and perform all powers of local legislation and administration it deems appropriate.

WHEREAS, K.S.A. 19-101a(b) provides that home rule powers shall be exercised by resolution of the Board of County Commissioners.

WHEREAS, K.S.A. 65-3415a(d) mandates that a person or persons responsible for illegal dumping activity shall be responsible for corrective actions.

WHEREAS, K.S.A. 12-1617e allows cities to remove and abate from any lot or parcel any and all nuisances, and allows for the cost of said removal and abatement be billed to the owner and/or assessed and charged against the lot or parcel of ground on which the nuisance was located.

WHEREAS, Kansas Statutes Annotated provides no such guidance for Kansas counties.

WHEREAS, the Franklin County Board of County Commissioners wishes to adopt the language of K.S.A. 12-1617e as a means of abating nuisances in Franklin County and collecting the costs for said abatement.

NOW BE IT THEREFORE RESOLVED

BY

THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, KANSAS

That Franklin County Board of County Commissioners adopts the following as local legislation controlling the abatement of nuisances, and the collection of costs for abating nuisances in Franklin County, Kansas:

Abatement of nuisances; notice; assessment and collection of costs; procedure; disposition of motor vehicles.

(a) The governing body of Franklin County, Kansas ("County") may have removed or abated from any lot or parcel of ground within the County any and all nuisances, including but not limited to, rank grass, weeds or other vegetation. The governing body may have drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the County or board of health or other agency as may be designated by the governing body of the County files with the Franklin 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 the County, or of any neighborhood, family or resident of the County. The governing body of the County, by resolution, also may make such determination.

(b) Except as provided by subsection (c), the governing body of the 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 the 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 the 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, the County shall proceed to have the things described in the order removed and abated from the lot or parcel of ground. If the 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. The 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 collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or 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 Franklin County Clerk, at the time of certifying other County taxes to 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 the County as other County taxes are collected and paid. The County may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(e) The 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, the 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.

This Resolution shall be in full force and effect following its passage by the Board of County Commissioners and its subsequent publication in the official county newspaper.

WHEREUPON, the Board of County Commissioners of Franklin County, Kansas, passes and adopts this Resolution in regular session at its chambers in Ottawa, Franklin County, Kansas, this 24th day of May, 2006.

/s/ John E. Taylor
John E. Taylor, Chairman

APPROVED, received and recorded this 24th day of May, 2006

/s/ Shari Perry

Shari Perry, Franklin County Clerk