

ORDINANCE NO. 295

AN ORDINANCE RELATING TO INOPERABLE VEHICLES; PROHIBITING CERTAIN PLACEMENT OR STORAGE OF SAME ON PRIVATE PROPERTY; PRESCRIBING DUTIES FOR CERTAIN OFFICERS AND PRESCRIBING PENALTIES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WATHENA:

SECTION 1. FINDING OF GOVERNING BODY. The council finds that junked, wrecked, dismantled, inoperative, discarded or abandoned vehicles in and upon real property within the city is a matter affecting the health, safety and general welfare of the citizens of Wathena, for the following reasons: (a) Such vehicles serve as a breeding ground for flies, misquitoses, rats and other insects and rodents; (b) They are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports and because they are a ready source of fire and explosion; (c) They encourage pilfering and theft, and constitute a blighting influence upon the area in which they are located thereby causing a loss in property value to surrounding property; (d) They constitute a fire hazard in that they block access for fire equipment to adjacent buildings and structures.

SECTION 2. DEFINITIONS. Inoperable--means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. Vehicle--means any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

SECTION 3. PROHIBITIONS. Except as provided in Sections 4 and 5 it shall be unlawful for any person, partnership, corporation, or their agent either as owner, lessee, tenant or occupant of any lot or land within the city to park, store or deposit thereon, an inoperable vehicle unless it is enclosed in a garage or other building, or to permit the same to be parked, stored or deposited thereon.

SECTION 4. TEMPORARILY DISABLED VEHICLE. The provisions of Section 3 of this ordinance shall not apply to any person, firm or corporation or their agent with one vehicle inoperable for a period of fifteen (15) consecutive days or less.

SECTION 5. SCREENING. The provisions of Section 3 of this ordinance shall not apply to any person, firm or corporation or their agent who is conducting a business enterprise in compliance with existing zoning regulations and who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public using the streets and sidewalks and to prohibit ready access to such vehicles by children; Provided, however, that nothing in this section shall authorize the maintenance of a public nuisance.

SECTION 6. PRESUMPTIONS. Any one of the following conditions shall raise the presumption that a vehicle is inoperable: (a) absence of an effective registration plate upon such vehicle, (b) placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports, (c) absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

SECTION 7. ADMINISTRATIVE PROCEDURE. Whenever an informal complaint is made to the enforcing officer hereinafter appointed, or notice is given to such officer of the existence of an apparent violation of this ordinance, he shall within seven (7) days thereafter cause to be served upon the person in possession or the owner of the real property upon which such inoperable vehicle is located a written notice. Such notice shall inform such person of the violation and direct that he take action within seven (7) days after receipt of such notice to comply with the provisions of this ordinance or prosecution will be commenced for violation thereof.

In the event such person fails to comply with the provisions of this ordinance within such time the enforcing officer shall notify the city attorney who shall commence prosecution under this ordinance.

SECTION 8. ENFORCING OFFICER. The Marshal of the City of Wathena is hereby appointed as the enforcing officer of this ordinance.

SECTION 9. PENALTY. Any person, partnership or corporation violating the provisions of this ordinance shall, upon conviction thereof, be fined in an amount not to exceed One Hundred (\$100.00) or imprisoned not to exceed thirty (30) days or by both such fine and imprisonment. Each day during or on which a violation occurs or continues shall constitute a separate offense.

SECTION 10. AUTHORITY. This ordinance is adopted by authority of and under the provisions of Article 12, Section 5 of the Kansas Constitution.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED and APPROVED this 21st day of November, 1972.

Mayor

ATTEST:

City Clerk