

City of Reading Ordinance No. 647

An ordinance regulating the Parking of Motor Vehicles; declaring certain matters as Motor Vehicle Nuisances within the City of Reading, Kansas; providing for the removal or abatement of motor vehicle nuisances; authorizing the assessment of costs; providing for penalties; and repealing ordinance 555.

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

Section 1. FINDINGS OF GOVERNING BODY.

- 1.1. **The governing body finds that vehicles are being parked in areas not specifically designed to support the weight of the vehicle, or allow the movement of, in all weather conditions. The parking of which:**
 - 1.1.1. Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
 - 1.1.2. Constitute a blighting influence upon the area in which they are located.
- 1.2. **The governing body also finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:**
 - 1.2.1. Service as breeding ground for flies, mosquitoes, rats and other insects and rodents;
 - 1.2.2. Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
 - 1.2.3. Are a ready source of fire and explosion;
 - 1.2.4. Encourage pilfering and theft;
 - 1.2.5. Constitute a blighting influence upon the area in which they are located;
 - 1.2.6. Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

Section 2. DEFINITIONS. As used in this ordinance, unless the context clearly indicates otherwise:

- 2.1. **Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;**
- 2.2. **Vehicle means, without limitation, 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. REGULATION OF MOTOR VEHICLE PARKING AREAS; PARKING AREAS DEFINED.

- 3.1. **Vehicles in the city limits shall be parked in an area specifically designed for that purpose.**
- 3.2. **The parking area shall be surfaced with gravel, concrete, asphalt or any other material designed for this purpose and shall be of sufficient quantity and depth to support the weight of said vehicle.**

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Section 4. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city on private or public property.

4.1. A motor vehicle nuisance is any motor vehicle which meets one or more of the following conditions:

- 4.1.1. Not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended;
- 4.1.2. Parked in violation of city ordinance
- 4.1.3. Incapable of moving under its own power
- 4.1.4. In a junked, wrecked or inoperable condition

4.2. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked, inoperable, or in violation of city ordinance:

- 4.2.1. Absence of a current registration plate upon the vehicle;
- 4.2.2. Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
- 4.2.3. Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway;

4.3. Also classified as a motor vehicle nuisance is any vehicle:

- 4.3.1. Abandoned on public property, including but not limited to city streets, in excess of 48 hours, whether bearing current registration plates or not, operational or not.
- 4.3.2. The continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.

4.4. The provisions of this section shall not apply to:

- 4.4.1. Any motor vehicle located within a fully enclosed structure or within the back yard and substantially screened from view from any adjacent property by a wall or fence.
 - 4.4.1.1. The City Council must approve of the materials used to construct the wall or fence and be in compliance with the following standards:
 - 4.4.1.1.1. Materials for a fence or wall shall be of a type, material and quality compatible with the immediate neighborhood.
 - 4.4.1.1.2. All fencing, including gates, shall be free of missing structural members and shall be maintained in quality and appearance so as not to constitute blight to adjoining property. Repairs or replacements shall be made with materials compatible with the undamaged portions of the fence.
 - 4.4.1.2. The City Council may approve mature landscape materials as an acceptable screen if the council determines that it provides the substantial equivalent of approved fence or wall materials.
- 4.4.2. The parking of any vehicle upon public streets or property for a period of 48 hours or less, or not in violation of 4.3.2
- 4.4.3. The parking or storage of a vehicle inoperable for a period of 30 consecutive days or less
- 4.4.4. Any person conducting a business enterprise in compliance with KSA 68-2201 and amendments thereto (licensed salvage dealer) and with the approval of the local governing body. Such vehicles shall be kept behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. All screening shall also comply with 4.4.1.1. as approved by the City Council. However, nothing in this section shall construe to authorize the maintenance of a public nuisance.

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Section 5. PUBLIC OFFICER. The Mayor shall designate a public officer to be charged with the administration and enforcement of this article.

Section 6. COMPLAINTS; INQUIRY AND INSPECTION.

6.1. The public officer shall make inquiry and inspection of premises upon one or more of the following:

- 6.1.1. 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
- 6.1.2. Is informed that a nuisance may exist by the county board of health or the fire chief.
- 6.1.3. When he or she observes conditions which appear to constitute a nuisance.

6.2. Upon making any inquiry and inspection the public officer shall make a written report of findings to the City Council.

Section 7. RIGHT OF ENTRY. It shall be a violation of this ordinance 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 8. NOTICE. Any person(s) found by the public officer to be in violation of section 3 or section 4 shall be served a notice of such violation. A notice shall be served to the landowner of record upon which property the violation is located and a notice shall also be served to the tenant of said property if tenant is not the same as the landlord. The notice shall be served by registered mail, postage prepaid, return receipt requested.

Section 9. SAME, CONTENTS. The notice shall state the condition(s) which is (are) in violation. The notice shall also inform the person that:

- 9.1. He, she or they shall have ten (10) days from the date of serving the notice to abate the condition(s) in violation ; or
- 9.2. He, she or they have ten (10) days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 12;
- 9.3. Failure to abate the condition(s) or to request a hearing within the time allowed may result in abatement of the condition(s) by the city as provided by Section 10.

Section 10. ABATEMENT. The public officer may seek to remedy violations of this article in the following manner:

- 10.1. If the vehicle is on public property or real property not owned or leased by the owner or lessee of said vehicle for a period of time in excess of 48 hours, the city shall remove said vehicle immediately, impounding it for 30 days or more, then dispose of it as provided by Section 11;
- 10.2. If a person to whom a notice has been sent pursuant to Section 8 has neither alleviated the condition(s) causing the alleged violation nor requested a hearing before the governing body within the time period specified in Section 9, 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 condition(s) causing the violation at the end of ten (10) days after passage of the resolution.

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10.3. 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 13. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- 10.3.1. Personal service upon the person in violation;
- 10.3.2. Service by registered mail, postage prepaid, return receipt requested; or
- 10.3.3. 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 publishing the same once each week for two (2) consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

Section 11. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from public or private property pursuant to this ordinance shall be as provided by K.S.A. Supp. 8-1102, as amended.

Section 12. HEARING.

- 12.1. If a hearing is requested within the ten (10) day period as provided in Section 9, such request shall be made in writing to the governing body.
- 12.2. 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.
- 12.3. The hearing shall be held by the governing body as soon as possible after the filing of the request thereof, 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 formal rules of evidence.
- 12.4. 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 10.

Section 13. PENALTY.

- 13.1. Violations of this Ordinance will result in a penal fine not to exceed Fifty Dollars (\$50.00) per day for each day of violation after notice of such violation has been sent by the City Clerk of the City of Reading upon conviction of Ordinance 647.
- 13.2. In the event the owner shall fail and refuse to abate the nuisance within ten (10) days thereof, the City of Reading shall have the right to remove such nuisance vehicles from the premises upon which such nuisance vehicle is located and the owner of the property upon which the nuisance vehicle is located shall also be responsible for the payment of any costs of removal of such nuisance vehicle in addition to the penal fine as set forth herein.

Section 14. REPEAL OF ORDINANCE 555. Ordinance number 555 is hereby repealed.

Section 15. This ordinance shall be in **full force and effect** from and after its publication in the official city newspaper.

ADOPTED AND APPROVED by the Governing Body, this 7th day of June, 2007.

Brian D. Velasquez Mayor

Marsha Higgins City Clerk