

ORDINANCE NO. 136

AN ORDINANCE PROHIBITING AND PERTAINING TO THE KEEPING OF LIVESTOCK AND FOWL, WITHIN THE CORPORATE LIMITS OF THE CITY OF IUKA, KANSAS; PROVIDING FOR REMOVAL, COSTS AND FINE.

WHEREAS, the Governing Body of the City of Iuka, Kansas, finds it would be in the public's best interest if the Governing Body of the City of Iuka, Kansas, passed an ordinance prohibiting the keeping of livestock and fowl, within the corporate limits of the City of Iuka, Kansas.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF IUKA, KANSAS:

SECTION 1. DEFINITIONS. As used in this ordinance, unless the content clearly indicates otherwise:

A. Livestock means, animals commonly regarded or used as farm or ranch animals, including but not limited to buffalo, cattle, donkeys, goats, horses, llamas, mules and sheep.

B. Fowl means all animals that are included in the zoological class Aves which will include, but is not limited to ducks, geese, guineas, ostriches, pigeons and turkeys. Pet birds kept solely in a cage kept solely in a residence, are excluded.

C. Keeping means allowing any livestock or fowl to remain (permanent or temporarily) or to be fed within his or her home, store, yard, or in any other premise which he or she resides, owns or controls;

D. Own means and includes keep, harbor, shelter, manage, possess or have a whole or part interest in any livestock or fowl. If a minor owns livestock or fowl, the head of the household of which such minor is a member shall be deemed to own such livestock or fowl, for the purpose of this ordinance.

SECTION 2. KEEPING LIVESTOCK AND FOWL WITHIN THE CITY IS UNLAWFUL. It shall be unlawful for any person to keep livestock or fowl within the City. It shall be unlawful for any person to own livestock or fowl which is kept in the City.

SECTION 3. PUBLIC OFFICER. The City Council shall designate a Public Officer to be charged with the administration and enforcement of this ordinance.

SECTION 4. INQUIRY INSPECTION. The Public Officer may make inquiry of people and inspection of premises, upon receiving a complaint that livestock or fowl is kept within the City, or is informed that livestock or fowl is kept within the City by the City Council or upon personal observation that livestock or fowl is kept within the City of Iuka.

SECTION 5. 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/or inspection to determine if livestock or fowl is being kept within the City of Iuka.

SECTION 6. NOTICE. Any person, corporation, partnership or association found by the Public Officer to be in violation of Section 2 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested or by personal service by the Public Officer or by personal service by a law enforcement officer. Restricted mail service is obtained upon mailing

SECTION 7. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of Section 2. The notice shall also inform the person, corporation, partnership or association that:

A. He, she or it shall have 10 days from the date of service of the notice to abate the condition(s) in violation of Section 2; or,

B. He, she or it shall have 10 days from the date of service of the notice to request a hearing before the City Council of the matter as provided in Section 8.

C. Failure to abate the condition(s) or to request a hearing within the time allowed may result in impounding as provided by Section 9 and/or the imposition of a fine as provided in Section 10.

SECTION 8. HEARING. If a hearing is requested within the 10-day period as provided in Section 7, such request shall be made in writing to the City Council. Failure to make a timely request for a hearing or to appear at a requested hearing, shall constitute a waiver of the person's, corporation's, partnership's or association's right to contest the findings of the Public Officer before the City Council. The hearing shall be held by the City Council as soon as possible after the filing of the request therefore, and the person, corporation, partnership or association, shall be advised by the City of the time and place of the hearing at least 5 days in advance thereof. At any such hearing, the person, corporation, partnership or association, may be represented by counsel, and the person, corporation, partnership or association and the City may introduce such witnesses and evidence as is deemed necessary and proper by the City Council. The hearing need not be conducted according to the formal rules of evidence. The purpose of the hearing will be to determine if Section 2 of this ordinance is or has been violated. Assuming a violation of Section 2, impoundment as provided in Section 9 may be ordered and/or fines may be imposed, as provided in Section 10. Upon conclusion of the hearing, the City Council shall record its determination of the matter by entry in it's minutes and oral announcement.

SECTION 9. IMPOUNDMENT. Following service of a notice pursuant to Section 7, in the event the person, corporation, partnership or association does not request a hearing; or in the event at hearing a violation of Section 2 is found pursuant to Section 8; the Public Official may capture, pickup and impound livestock or fowl; which livestock or fowl may be kept at any facility the Public Official deems appropriate. The owner or keeper may retrieve the animal or fowl upon payment of all fines imposed and the reasonable costs of impoundment. The retrieved livestock or fowl may not be returned to the City of Iuka. In the event the livestock or fowl is not retrieved within 10 days, the livestock or fowl may be sold or otherwise disposed of by the Public Officer. In the event the livestock or fowl is sold, the sale proceeds shall first be used to pay the impoundment expense; second any fine and the balance shall be paid to the City's general fund.

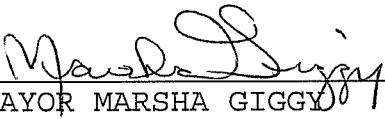
SECTION 10. FINE. In the event the person, corporation, partnership or association is found to be in violation of Section 2, a fine may be imposed by the City Council, for each day thereafter that the violation continues, in an amount not to exceed \$25.00 per day. The fine shall be paid to the City's general fund.

SECTION 11. ASSESSMENT OF COSTS OF IMPOUNDMENT AND/OR FINE.

If the cost of impoundment and/or fine remain unpaid after 30 days following either impoundment or the initial imposition of a fine, the City Clerk shall, at the time other special assessments are certified for placement on the tax rolls of the county, certify to the County Clerk the amount of the costs of impoundment and/or the amount of the fine; as an assessment against the particular lot or piece of land on which such violations of section 2 occurred.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper, The Pratt Tribune.

PASSED AND ADOPTED, this _____ day of _____, 2010.



MAYOR MARSHA GIGGY
CITY OF IUKA

Attest:
(Seal)

IUKA CITY CLERK