

AN ORDINANCE DECLARING NONTITLED MOTOR VEHICLES AS NUISANCES AND PROVIDING FOR THE REMOVAL OR COVERING OF NONTITLED MOTOR VEHICLE NUISANCES; AUTHORIZING THE ASSESSMENT OF COST AND PROVIDING FOR PENALTIES.

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

SECTION 1. FINDINGS OF GOVERNING BODY. The Governing Body finds that nontagged motor vehicles affect the health, safety and general welfare of citizens of the City, because they are likely to be abandoned and/or not frequently moved; and consequently:

A. Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

B. Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;

C. Are a ready source of fire and explosion;

D. Encourage pilfering and theft;

E. Constitutes a blighting influence upon the area in which they are located;

F. 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 content clearly indicates otherwise:

A. Motor vehicle means, without limitation, any automobile, truck, or motorcycle, which as originally built contained an engine, regardless of whether it contains an engine at any other time.

B. Nontitled motor vehicle means any motor vehicle without a current registered license plate attached to said motor vehicle.

C. Person means an individual, corporation, partnership or association.

D. Enclosed structure means a building with a roof and walls, privacy fence, tarp or other facility that keeps the motor vehicle out of public view.

E. Permit means to own property where a nontitled vehicle in violation of Section 3 is located.

SECTION 3. NONTITLED MOTOR VEHICLE UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to own or permit any nontitled motor vehicle to be parked or stored within the City unless said nontitled motor vehicle is either completely covered by tarp, completely covered by other non transparent material or is in an enclosed structure.

SECTION 4. PUBLIC OFFICER. The City Council shall designate a Public Officer to be charged with the administration and enforcement of this article.

SECTION 5. COMPLAINTS; INQUIRY AND INSPECTION. The Public Officer shall make inquiry of people and inspection of premises, upon receiving a complaint that a nontitled motor vehicle exists in violation of Section 3 by the City Council. The Public Officer may also make such inquiry and inspection when he or she observes conditions which appear to constitute a violation of Section 3. Upon making any inquiry and inspection, the Public Officer shall serve a notice pursuant to Section 7 or make a written report to the City Council of no violation.

SECTION 6. 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 a violation of Section 3 exists.

SECTION 7. NOTICE. Any person found by the Public Officer to be in violation of Section 3 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 8. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of Section 3. The notice shall also inform the person that:

A. The person shall have 10 days from the date of service of the notice to abate the condition(s) in violation of Section 3; or,

B. The person 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 by Section 11.

C. Failure to abate the condition(s) in violation or to request a hearing, within said 10 days may result in the Public Officer removing the nontitled motor vehicle as provided by Section 9.

SECTION 9. REMOVAL. The Public Officer may seek to remedy violations of this section in the following manner: If a person to whom a notice has been sent pursuant to Section 7 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the City Council within the 10 day time period specified in Section 8, the City Council may adopt a resolution authorizing the Public Officer or other agents of the City to remove the nontitled motor vehicle after passage of a resolution. 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 nontitled motor vehicle was located as provided in Section 11. Before removal, a copy of the resolution shall be served upon the person in violation in one of the following ways:

A. Personal service upon the person in violation;

B. Service by restricted mail, postage prepaid, return receipt requested; or

C. In the event the whereabouts of such person is unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the Public Officer with the City Clerk, and the serving of the resolution shall be made by publishing the same once in the official City newspaper and by posting a copy of the resolution on the premises where such condition exists.

SECTION 10. DISPOSITION OF VEHICLE. Disposition of any nontitled motor vehicle removed pursuant to this ordinance shall be as provided by K.S.A. supp. 8-1102, as amended.

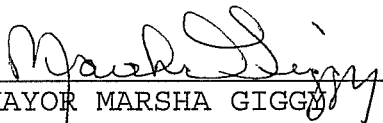
SECTION 11. HEARING. If a hearing is requested within the 10-day period as provided in Section 8, such request shall be made in writing to the City Council. Failure to make a timely request for a hearing or failure to appear at a requested hearing shall constitute a waiver of the person's right to contest 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 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 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 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 3 is or has been violated, order removal if appropriate and impose fines if appropriate. Upon conclusion of the hearing, the City Council shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in Section 9. The resolution may direct removal of the nontitled motor vehicle as provided in Section 9 and may provide that fines and costs incurred by the City, shall be charged as provided in Section 12 and 13.

SECTION 12. FINE. In the event the person, corporation, partnership or association is found to be in violation of Section 3, 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 13. COSTS ASSESSED. If the City removes the nontitled motor vehicle pursuant to Section 9, the cost of removal shall be charged against the lot or parcel of ground on which the nontitled motor vehicle was located. The City Clerk shall, at the time of certifying other taxes to the County Clerk, certify the costs as provided in this section. The County Clerk shall extend the same on the tax roll and it shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid.

SECTION 14. This Ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

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



MAYOR MARSHA GIGG
CITY OF IUKA

Attest:
(Seal)

IUKA CITY CLERK