

(Published in The
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BEFORE THE CITY COUNCIL
OF THE CITY OF BEVERLY,
KANSAS

WHEREAS, the governing body of the City of Beverly, Kansas, finds that junked, wrecked, dismantled, unlicensed, inoperative and/or abandoned vehicles affect the health, safety and general welfare of the citizens of the city because they may and can

(a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(b) Serve as a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports and generally being hazardous nuisances;

(c) Serve as a potential source of fire or explosion or both;

(d) Constitute a blight upon the area in which they are located; and

(e) May constitute a fire hazard by blocking access to adjacent buildings necessary for fighting fires should one occur.

NOW, THEREFOR, BE IT RESOLVED AND ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEVERLY, KANSAS, AS FOLLOWS:

ORDINANCE NO. 131

AN ORDINANCE PERTAINING TO INOPERABLE OR UNLICENSED MOTOR VEHICLE STORAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND ESTABLISHING PENALTIES

1) DEFINITIONS. As used in this ordinance the following terms shall be defined as hereinafter set forth:

(a) "Inoperable" - a vehicle that is in a condition of being junked, wrecked, wholly or partly dismantled, discarded, abandoned or unable to perform the functions or purposes for which it was originally constructed or for which it may have been subsequently modified or is to be subsequently modified.

(b) "Unlicensed" - a vehicle that does not have a current state license plate or decal.

(c) "Vehicle" - without limitation any automobile, truck, tractor, motorcycle, or aircraft which as originally built contained an engine or was designed to contain an engine regardless of whether it currently contains an engine or contained an engine at any other time.

2) PRESUMPTIONS. Any one of the following conditions shall raise the presumption that a vehicle is inoperable:

(a) Absence of a current registration plate upon the vehicle.

(b) Placement of the vehicle or parts thereon upon jacks, blocks or other supports.

(c) Absence of one or more parts of the vehicle which are necessary for the vehicle to operate lawfully upon the street or highway.

(d) Failure to move a non-garaged vehicle at least once every thirty (30) days under its own power.

3) PROHIBITIONS: EXCEPTIONS.

(a) It shall be unlawful, except as provided hereinafter in sections 3(b) and 3(c) for any person or agent either as owner, lessee tenant or occupant of any land within the city limits of the City of Beverly, Kansas, to park, store or deposit, or to permit to be parked, stored or deposited thereon for a period of

deposited thereon for a period of time in excess of seventy-two (72) hours, an inoperable or unlicensed vehicle, unless said vehicle is enclosed in a garage or other structure.

(b) The provision of 3(a) shall not apply to the parking or storage of a vehicle which is inoperable or unlicensed for a period of thirty (30) consecutive days or less.

(c) The provisions of 3(a) shall not apply to any person or his or her agent or a corporation or a company which is conducting a commercial enterprise in any commercial district when such vehicles are placed behind screening of sufficient size, strength and density to screen such vehicles from view of the public using the streets and the sidewalks and to prohibit ready access to the stored vehicles by children, provided, however, that nothing in this section authorizes the maintenance of a public nuisance.

4) ADMINISTRATIVE PROCEDURE: COMPLAINT RECEIVED PROCESS.

Whenever an informal complaint is made to the city clerk or notice is given to such officer of the existence of an apparent violation of this article, whether upon public property or upon privately owned property, he or she shall within seven 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 or she take action within seven (7) days after receipt of such notice to comply with the provisions of this article or prosecution will be commenced for violation thereof. In the event such person fails to comply with the provisions of this article within such time the city clerk shall notify the city attorney, who shall commence prosecution under this article.

5) ABANDONED VEHICLES: AUTHORITY TO REMOVE.

Whenever any person shall abandon and leave a motor vehicle on a highway or other property open to use by the public for a period of time in excess of 48 hours, the city may remove the motor vehicle from such highway or other property and place or store the same in a safe and convenient place. If such motor vehicle has displayed thereon a registration plate issued by the Division of Vehicles and has been registered with said division, the city or its designated agent shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the leinholder, if any, of record in the county in which title shows the owner resides, if registered in this state, stating that if the owner or leinholder does not claim such motor vehicle and pay the removal and storage charges incurred by the city on the same within 15 days from the date of mailing of the notice, that the same will be sold at public auction to the highest bidder for cash. The city shall use reasonable diligence in determining the title owner or the registered owner of the vehicle.

6) SAME: NOTICE. After 15 days from date of mailing notice the city or its designated agent shall publish a notice for two consecutive weeks in the official city newspaper where such motor vehicle was abandoned and left. The notice shall describe the motor vehicle by name of make, model, serial number and owner, if known, and state that the same has been impounded by the city and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the same within 10 days from the date of the second publication of the notice and pay the removal and storage charges, and the publication of the notice shall have a

7) SAME: SOLD AT AUCTION.

Whenever the city or its designated agency has complied with the foregoing provision of this article with respect to any such abandoned motor vehicle and the owner thereof does not claim the same within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the city on such motor vehicle, the city or its designated agent may sell the motor vehicle at public auction to the highest bidder for cash. After any sale pursuant to this section, the city or its designated agent may file proof thereof with the Division of Vehicles. Thereupon, said division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of motor vehicles pursuant to this article, after payment of the expenses of the impoundment and sale, shall be paid into the general fund of the city.

8) SAME: ON PRIVATE PROPERTY.

Any person who shall abandon and leave any vehicle on any real property, other than public property or property open to use by the public, within the city, which is not owned or leased by such person or by the owner or lessee of such vehicle, shall be guilty of criminal trespass. Upon request of the owner or occupant of such real property the city or its designated agent may remove and dispose of such vehicle in the manner provided in this article except that the provisions that a motor vehicle be abandoned for a period of time in excess of 48 hours prior to its removal shall not be applicable to abandoned vehicles which are subject to the provisions of this section. Any person removing such vehicle from the real property at the request of the city shall have a

possessory lien on such vehicle for the costs incurred in removing, towing and storing such vehicle.

9) PENALTY. Any person, company, corporation or designated agent thereof violating the provisions of this ordinance shall upon conviction thereof, be fined in an amount not to exceed \$200.00 per each offense, and/or imprisonment not to exceed five (5) days per each offense. Each day after notice has been given directly to the violator or from and after the first publication in the newspaper during which the violation exists or continues to exist shall constitute a separate offense.

10) EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the Lincoln Sentinel-Republican, Lincoln, Kansas, as provided by law.

11) CONTRARY ORDINANCES. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance passed and adopted by the City Council of the City of Beverly, Kansas, this 7th day of July, 1993.

/s/ Wendell Manning,
Mayor

ATTEST: /s/ Doris Geyer
City Clerk

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