

ORDINANCE NO. 201

AN ORDINANCE ENACTED PURSUANT TO K.S.A. 1973 SUPP. 17-4759(c) AND 17-4759(i) AND THE POLICE POWERS OF THE STATE OF KANSAS DECLARING CERTAIN INOPERABLE TRUCKS OR AUTOMOBILES, OR PARTS THEREOF, FOUND ON PRIVATE PROPERTY OR PUBLIC PROPERTY OTHER THAN CITY STREETS AND ALLEYS, TO BE PUBLIC NUISANCES AND PROVIDING FOR A PROCEDURE FOR THE ABATEMENT THEREOF AND NOTICE TO CERTAIN PARTIES INTERESTED THEREIN PRIOR TO THE IMPOUNDMENT OF THE SAME; AND FURTHER NOTICE TO PARTIES INTERESTED THEREIN PRIOR TO THE SALE OF THE SAME AT PUBLIC AUCTION; AND PROVIDING FOR THE DISPOSITION OF FUNDS OBTAINED FROM THE SALE OF THE SAME; AND OTHERWISE MAKING PROVISIONS FOR THE REDEMPTION OF ANY SUCH TRUCK OR AUTOMOBILE, OR PARTS THEREOF; AND MAKING PROVISIONS FOR A CERTAIN EXCEPTION THERETO.

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

Section 1. That this Ordinance is enacted pursuant to K.S.A. 1973 Supp. 17-4759(c) and 17-4759(i) as well as enacted under the general police powers of said City at common law and is for the purpose of the abatement of nuisances in the form of unused or inoperable trucks or automobiles, or parts thereof, found on private property or public property other than City streets and alleys.

Section 2. That whenever any inoperable truck or automobile, or parts thereof, shall be left standing on any private or public property other than streets or alleys, in the City of Andover, Kansas for a period of more than three months, the same shall be deemed to be a nuisance and a hazard to the public health, welfare and safety of the citizens of said City as well as a blight upon adjoining property and property in the area; provided however that nothing herein shall be construed as preventing any resident of the City of Andover, Kansas from making repairs upon any truck or automobile on his private premises so long as such repairs shall be expeditiously done and in the event that for reasons unavoidable by the resident of such property such repairs cannot be made within the period of three months then, upon application by such resident, the City Clerk of the City of Andover, Kansas, at his discretion, may extend the period of time for the repair of such truck or automobile not to exceed an additional three months. Nothing in this section shall be construed to invalidate this section should the inoperable truck, automobile, or part thereof be moved from place to place upon the same lot or from one lot or piece of ground within said City, or for that matter outside of said City, and then returned to the original site or lot where formerly located, such action being construed to be an attempt to avoid the effect and scope of this Ordinance.

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passed*

Section 3. When any truck, automobile, or part thereof, does not comply with the intent of Section 2 hereinabove, then the City Clerk shall furnish written notice of such nonconformity to the owner of such inoperable truck or automobile, or part thereof, as well as to the owner and tenant of the real property upon which the same is located; and the owner of such truck or automobile or the tenant or owner of the real property, upon receipt of such notice, shall have a period of seven days from the receipt of such notice in which to remove and abate such nuisance. The notice provided for in this Section shall be mailed by certified mail to the registered owner of the truck or automobile and the tenant and owner of said real property.

Section 4. Thereafter and in the event that the said nuisance is not abated within seven days from the receipt of notice as hereinabove provided, then the City Clerk, or persons under his direction, may enter onto such property and remove the inoperable truck or automobile, or parts thereof, constituting a nuisance to the City's place of impoundment.

Section 5. If such motor vehicle has displayed thereon a registration plate issued by the Motor Vehicle Department of the State Highway Commission of the State of Kansas and has been registered with said department, said City Clerk 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 lienholder, if any, of record in the county which the title shows the owner resides. If registered in this state, stating that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by said City within thirty (30) days from the date of the mailing of the notice, that the same will be sold at public auction to the highest bidder for cash. The City Clerk shall use reasonable diligence in determining the title owner, or if from a nontitle state the registered owner of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record.

Section 6. After thirty days from the date of mailing notice, if the motor vehicle is more than four model years of age, or after 60 days from the date of mailing notice if the said motor vehicle is four model years of age or less, then the City Clerk shall publish a notice for two consecutive weeks in

the official City paper as well as in another newspaper of general circulation in Butler County, which notice shall describe the motor vehicle by name of maker, model and serial number and owner, if known, and stating that the same has been impounded by the City of Andover, Kansas and that the same will be sold at public auction, to the highest bidder for cash, if the owner thereof does not claim same within ten days of the date of the second publication of the notice and pay the removal and storage charges and publication costs incurred by the City of Andover, Kansas.

Section 7. If such motor vehicle does not display a registration plate issued by the Motor Vehicle Department of the Highway Commission of the State of Kansas and is not registered with said Department, the City of Andover, Kansas, or its City Clerk, may after thirty days after the date of impoundment, publish a notice in the official City newspaper and in another newspaper of general circulation in Butler County. The notice shall describe the motor vehicle by name of maker, model, color and serial number and state that the same has been impounded by the City of Andover, Kansas and that the same will be sold at public auction to the highest bidder for cash if the owner thereof does not claim the same within ten days of the date of the second publication of the notice and pay the removal and storage charges incurred by said City of Andover, Kansas.

Section 8. Whenever the City of Andover, Kansas shall have complied with all of the foregoing provisions of this Ordinance 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 of Andover, Kansas on such motor vehicle, said City of Andover, Kansas, or its designated agent, may file proof thereof with the motor vehicle department of the highway commission of this state, and thereupon, said department shall issue a certificate of title to the purchaser of such motor vehicle. Any such motor vehicle may be sold by the City of Andover, Kansas, or its designated agent, so removing and storing the same if the owner does not claim the same within the time specified in the notice given as hereinabove provided. Such sale shall be by public auction to the highest bidder for cash. All monies derived from the sale of such motor vehicles, after payment of expenses of the sale, shall be a fund of the City of Andover, Kansas which is to be used by it for the construction and maintenance of highways and/or streets.

Section 9. This Ordinance shall be inapplicable and of no effect as to such trucks, automobiles, or parts thereof, properly stored on premises duly licensed by the Kansas Salvage Board and otherwise in full compliance with all state laws and City ordinances, whether enacted prior hereto or enacted hereafter regulating salvage yards insofar as only the premises specifically licensed by the State Salvage Board is concerned and not as to adjoining or any other premises, and in the event that any such premises so licensed by the State Salvage Board shall not be in full compliance with the laws of the State of Kansas regulating salvage yards then and in that event this Ordinance shall be in full force and effect.

The above Ordinance passed and adopted the ____ day of September, 1973.

(SEAL)

Mayor

Attest:

City Clerk