

ORDINANCE NO. 4391

An Ordinance Regulating the Practice of Junking or Scrapping

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. Statement of Legislative Findings. The governing body finds and declares that the health, welfare and safety of the public is jeopardized by the accumulation and storage of junk, abandoned or junk vehicles, abandoned or junk vehicle parts, and scrap materials commonly referred to as junking or scrapping because it creates the following adverse conditions:

- a. Neighborhood and community blight and deterioration.
- b. Reduction of property values.
- c. An attractive nuisance for minor children.
- d. A haven for the infestation of vermin, rodents, insects, or other such conditions.

Section 2. Definitions. For purposes of this ordinance, the following terms shall have the following meanings:

- a. *Junk* – Things that have been thrown away or have little value or use; any old or discarded material, such as metal, paper or rags; anything that is considered worthless; trash or scrap.
- b. *Junking* – The act of collecting various discarded and unwanted items of junk, trash, scrap metal or the like and taking such items to a scrap yard, or similar establishment, for monetary reward; scrapping.

Section 3. Prohibited Activity.

a. It shall be unlawful for any person to collect, accumulate, keep, store, or park, or permit any other person to do the same, any junk, abandoned or junk vehicles, abandoned or junk vehicle parts upon any privately owned residential property unless such usage and conduct is in compliance with all zoning regulations and all applicable city ordinances dealing with permits, and licensing, and further provided that such items are stored within a fully enclosed building.

b. This section shall not apply to any vehicles which are otherwise in compliance with city ordinances regarding storage of such vehicles.

Section 4. Notice of Violation. If a code enforcement officer determines that a person is in violation of this ordinance, the code enforcement officer may issue a notice to such person which contains the following:

- a. That a violation exists and a description of the violation.
- b. That the violation must be abated within ten (10) days from the date of the notice.
- c. That if the cited party does not abate the violation within the time frame required, the cited party will be issued a citation for violation of this ordinance requiring the cited party to appear in municipal court.
- d. That if the City of Independence abates the violation, the cited party will be assessed the cost of the abatement, and if not paid, the assessment may be collected in any of the following ways:
 - (i) By referral to a collection agency;
 - (ii) By filing a civil lawsuit; or
 - (iii) Certifying the assessment to the Montgomery County Clerk and Montgomery County Treasurer at the time other special assessments are certified for the purpose of spreading the assessment on the tax rolls of Montgomery County.
- e. That if a civil lawsuit is filed, the city shall be entitled to recover reasonable attorney fees in addition to the assessment.

Section 5. Service of Notice. The code enforcement officer, or other person authorized to serve process, shall serve the notice upon the person being cited by either personal

service, or by posting a copy of the notice on or near the door of any structure located on the property followed by mailing a copy of the notice, first class mail, to the person being cited. There shall be a presumption that any notice sent by first class mail was delivered unless the letter was returned as undeliverable. Only those persons served with the notice of violation may be held responsible for the assessment of the cost of abatement.

Section 6. Abatement. In the event the cited person does not abate the violation within the timeframe allowed, the code enforcement officer may abate the nuisance at the cost of the cited person by utilizing city staff, or by hiring a third party contractor. The amount of the assessment shall be calculated by determining the cost of the equipment used, manhours, any applicable landfill charges, and/or the amount paid to the third party contractor.

Section 7. Right of Entry. Any code enforcement officer or designee is granted express authority to enter upon private property at reasonable hours for the purpose of compliance with this ordinance.

Section 8. Penalty. Any person convicted in municipal court of violation of this ordinance shall be punished as provided in City Code Section 1.14.

Section 9. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 9th day of June, 2022.



DEAN A. HAYSE, Mayor

ATTEST:



DAVID W. SCHWENKER, City Clerk