

ORDINANCE NO. 999

AN ORDINANCE DECLARING CERTAIN MATTERS AS MOTOR VEHICLE NUISANCES WITHIN THE CITY OF COTTONWOOD FALLS, KANSAS: PROVIDING FOR THE REMOVAL OR ABATEMENT OF MOTOR VEHICLE NUISANCES; AUTHORIZING THE ASSESSMENT OF COSTS AND PROVIDING FOR PENALTIES; AND REPEALING ORDINANCE NO. 887.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COTTONWOOD FALLS, KS:

SECTION 1. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety, and general welfare of citizens of the city because they:

- (a) Serves as a breeding ground for flies, mosquitoes, rats and other insects, animals 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) Area ready source of fire and explosion.
- (d) Encourage pilfering and theft.
- (e) Constitute 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 context clearly indicates otherwise:

- (a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed.
- (b) Vehicle means, without limitation, any automobile, truck, tractor, or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

SECTION 3. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 – 8-149 inclusive, as amended, or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked, or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable.
 - (1) Absence of a current registration plate upon the vehicle.
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports.
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the street or highway.
- (b) The provisions of this ordinance shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building.
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
 - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who place such vehicles behind screening of sufficient size, strength, and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance and public nuisance.

SECTION 4. PUBLIC OFFICER. The Governing Body shall designate a public officer to be charged with the administration and enforcement of this ordinance.

SECTION 5.COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same vehicle description and location is informed that nuisance may exist by the board of health, chief of police, sheriff, sheriff deputies, or fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report on the findings.

SECTION 6. RIGHT OF ENTRY. The public officer has the right to access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

SECTION 7. ORDER OF VIOLATION.

- (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership, or association found by the public officer to be in violation of Section 3 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone (mobile) communication, or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by the section shall be given by telephone (mobile) communication, or first class mail. (K.S.A. 12-1617e)

SECTION 8. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of Section 3. The notice shall also inform the person, corporation, partnership, or association that:

- (a) He, she or they shall have 10 days from receipt of the order to abate the condition(s) in violation of Section 3; or
- (b) He, she, or they have 10 days from receipt of the order to request a hearing before the governing body, or its designated representative of the matter as provided by Section 12.
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 9 and/or abatement of the condition(s) by the city as provided by Section 10.

SECTION 9. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of Section 3, be fined in amount to not to exceed \$100 or imprisoned not to exceed 30 days or be both fined and imprisoned. Each day

during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

SECTION 10. ABATEMENT. In addition to, or as alternative to prosecution as provided in Section 9, the public officer may seek to remedy violations of this ordinance in the following manner. If a person to whom an order has been sent pursuant to Section 7 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in Section 8, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

The resolution should further provide the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 13. 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 certified mail, return receipt requested, or
- (c) In the event the whereabouts of such person are 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 and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty four month period, the governing body of the city may provide notice of the insurance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone (mobile) communication or fist class mail.

SECTION 11 DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE.

- (a) Disposition of any motor vehicle removed and abated from private property pursuant to this ordinance shall be as provided by K.S.A. Supp.8-1102, as amended.
- (b) Any person attempting to recover a motor vehicle impounded as provided in this ordinance, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.

SECTION 12. 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 governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body or its designated representative 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 five days in advance thereof. At any such hearing, the person maybe be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative . The hearing may not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings

of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in Section 10.

SECTION 13. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to Section 10, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice also states the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including postage, required in this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30 day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1-115, and amendments there-to, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

SECTION 14. The prior ordinances of the City of Cottonwood Falls, Kansas are inconsistent with this Ordinance are hereby repealed.

SECTION 15. This Ordinance shall be in full force and effective from and after its adoption and publication in the official city newspaper.

ADOPTED AND APPROVED by the Governing Body, this 4th day of August 2025.

MAYOR , William S. Sisson: *William S. Sisson*

ATTEST:
Tina Andrews, City Clerk: *Tina Andrews*

City Seal:

