

A SAMPLE ABANDONED VEHICLE ORDINANCE
(This sample ordinance is to be considered only as a guide for local adoption)

INTRODUCED BY ALDERMAN _____

BILL NO. _____ ORDINANCE NO. _____

AN ORDINANCE REVISING CHAPTER 17 (MOTOR VEHICLES AND TRAFFIC) OF THE CODE OF ORDINANCES OF THE CITY OF BELLEFONTAINE NEIGHBORS, MISSOURI, REGARDING ABANDONED PROPERTY AND OPEN STORAGE OF INOPERABLE VEHICLES.

WHEREAS, the Missouri State Legislature has made various amendments to state law relating to abandoned property and open storage of inoperable vehicles over recent years; and

WHEREAS, §304.156.9 R.S.Mo. permits municipalities to adopt ordinances regulating the removal and sale of abandoned property, provided such ordinances are consistent with §§304.155 to 304.158 R.S.Mo.; and

WHEREAS, §304.158.10 R.S.Mo. permits cities to enact ordinances or orders which are consistent with §§304.155 to 304.158 R.S.Mo. and which may specify maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the city's jurisdiction; and

WHEREAS, §304.159 R.S.Mo. permits cities to enact ordinances prohibiting the storage of inoperable vehicles or other vehicles deemed by such city to constitute a public safety hazard; and

WHEREAS, the Board of Aldermen of the City of Bellefontaine Neighbors finds that it would be in the best interests of the City to regulate open storage of inoperable vehicles and the removal and sale of abandoned property, and to specify maximum towing, storage and other charges; and

WHEREAS, the Board of Aldermen of the City of Bellefontaine Neighbors desires that the City's ordinances conform with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BELLEFONTAINE NEIGHBORS, MISSOURI, AS FOLLOWS:

Section One.

Article XI of Chapter 17 of the Code of Ordinances of the City of Bellefontaine Neighbors, Missouri is hereby amended by repealing in full said Article XI and in lieu thereof, enacting a new Article XI to read as follows:

CHAPTER 17 Motor Vehicles and Traffic

ARTICLE XI ABANDONED PROPERTY

SECTION 17-291 Definitions.

As used in this article, the following terms shall mean:

Abandoned property. Any unattended motor vehicle, trailer, all-terrain vehicle, out-board motor or vessel removed or subject to removal from public or private property as provided in this Article, whether or not operational.

Person. Any natural person, corporation, or other legal entity.

Right-of-way. The entire width of land between the boundary lines of a public road or state highway, including any roadway.

Roadway. That portion of a public road or state highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Towing company. Any person or entity which tows, removes or stores abandoned property.

Urbanized area. An area with a population of fifty thousand (50,000) or more designated by the Bureau of the Census, within boundaries to be fixed by the state highways and transportation commission and local officials in cooperation with each other and approved by the Secretary of Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

§304.010 R.S.Mo.

SECTION 17-292 Abandoned vehicles prohibited.

No person shall abandon any motor vehicle on the right-of-way of any public road or state highway or on any private real property owned by another without his consent.

§577.080 R.S.Mo.

SECTION 17-293 Open storage of inoperable vehicles or public safety hazards prohibited.

The open storage of inoperable vehicles or other vehicles deemed by the City to constitute a public safety hazard is prohibited. Nothing in this subsection shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.

§304.159 R.S.Mo.

SECTION 17-294 Obstructing the flow of traffic prohibited.

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or state highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person who fails to comply with the requirements of this section is guilty of an ordinance violation and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00)

§304.151 R.S.Mo.

SECTION 17-295 Towing of abandoned property on public real property.

(A) Any law enforcement officer, or an official of the City where the City's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any state highway, or interstate highway or freeway in an urbanized area of the City, left unattended for ten (10) hours;

(b) Any state highway, or interstate highway or freeway outside of an urbanized area of the City, left unattended for more than forty-eight (48) hours;

provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this Section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under Section 17-292 of this Code or Section 577.080 R.S.Mo.;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any other state law or City ordinance is subject to towing because of the owners' outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or City ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.

§304.155.1 R.S.Mo.

(B) When the City Police Department authorizes a tow pursuant to this Section in which the abandoned property is moved from the immediate vicinity it shall complete a crime inquiry and inspection report.

(C) Any City agency other than the City Police Department authorizing a tow under this Section where property is towed away from the immediate vicinity shall report the tow to the City Police Department within two (2) hours of the tow, along with a crime inquiry and inspection report.

§304.155.3 R.S.Mo.

SECTION 17-296 Towing of abandoned property on private real property.

(A) Generally: The City, including the City Police Department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to Section 17-293, or are derelict, junk, scrapped, disassembled, or otherwise harmful to the public health. The City shall perform such tow pursuant to the terms of Section 17-297. When a City agency other than the Police Department authorizes a tow under this subsection, it shall report the tow to the Police Department within two (2) hours with a crime inquiry and inspection report.

§304.157.2 R.S.Mo.

(B) Towing authorized by City Police Department: If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any City Police Officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended for more than forty-eight (48) hours; or

(2) In the judgment of a Police Officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

§304.157.1 R.S.Mo.

(C) Towing authorized by real property owner, lessee, or property or security manager:

(1) The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:

(a) Sign: There is displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four-(24)-hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;

(b) Unattended on owner-occupied residential property: The abandoned property is left unattended on owner-occupied residential property with four residential units or less and the owner, lessee, or agent of the real property in lawful possession has notified the City Police Department and ten (10) hours have elapsed since that notification; or

(c) Unattended on other private real property: The abandoned property is left unattended on private real property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the City Police Department, and ninety-six (96) hours have elapsed since that notification.

§304.157.4 R.S.Mo.

(2) Pursuant to this Section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a City Police Officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to Section 575.060 R.S.Mo. The report shall be in the form designed, printed and distributed by the Missouri Director of Revenue and shall contain the following:

(a) The year, model, make and abandoned property identification number of the property, and the owner and any lienholders, if known;

(b) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

(c) The license plate or registration number and the state of issuance, if available;

(d) The physical location of the property and the reason for requesting the property to be towed;

(e) The date the report is completed;

(f) The printed name, address and telephone number of the owner, lessee or property or security manager in possession of the real property;

(g) The towing company's name and address;

(h) The signature of the towing operator;

(i) The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this Section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;

(j) Space for the name of the law enforcement agency notified of the abandoned property and for the signature of the law enforcement official receiving the report; and

(k) Any additional information the Missouri Director of Revenue deems appropriate.

§304.157.5 R.S.Mo.

(3) Any towing company which tows abandoned property without authorization from the City Police Department pursuant to Subsection B of this Section shall deliver a copy of the abandoned property report to the City Police Department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the City Police Department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two (2) hours if the tow was made from a signed location pursuant to Subsection (C)(1)(a) of this Section, otherwise the report shall be delivered within twenty-four (24) hours.

§304.157.6 R.S.Mo.

(4) The City Police Department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the Police Department and shall promptly make an inquiry into the national crime information center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The Police Department shall enter the information pertaining to the towed property into the statewide law enforcement computer system and a Police Officer shall sign the abandoned property report and provide the towing company with a signed copy.

§304.157.7 R.S.Mo.

(5) The City Police Department, after receiving notification that abandoned property has been towed by a towing company, shall search the records of the Missouri Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten (10) working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the Department of Revenue.

§304.157.8 R.S.Mo.

(6) No owner, lessee, or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this Section.

§304.157.9 R.S.Mo.

(7) Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:

(a) Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and

(b) The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.

§304.158.2 R.S.Mo.

(D) Damage to property. The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.

§304.158.3 R.S.Mo.

(E) Real property owner liability. Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this Article.

§304.158.4 R.S.Mo.

(F) Written authorization required; delegation of authority to tow.

(1) Except for the removal of abandoned property authorized by the City Police Department pursuant to this Section, a towing company shall not remove or commence the removal of abandoned property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one (1) year by the towing company.

(2) General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane designated by a fire department or the state fire marshal.

§304.158.8 R.S.Mo.

(G) Towing company liability. Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in subsection (F) of this Section, is liable to the owner of the property for four (4) times the amount of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this Section.

§304.158.9 R.S.Mo.

SECTION 17-297 General provisions and procedures.

(A) Payment of charges. The owner of abandoned property removed as provided in this Article shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in Section 17-298.

§304.155.5 R.S.Mo.

(B) Crime inquiry and inspection report. Upon the towing of any abandoned property pursuant to Section 17-295 or under authority of a law enforcement officer or local government agency pursuant to Section 17-296, the City Police Department, where it authorized such towing or was properly notified by another government agency of such towing, shall promptly make an inquiry with the national crime information center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system.

If the abandoned property is not claimed within ten (10) working days of the towing, the City Police Department shall submit a crime inquiry and inspection report to the Missouri Director of Revenue. The City Police Department shall also provide one copy of the report to the storage facility and one copy to the towing company. A towing company in possession of abandoned property after ten (10) working days shall report such fact to the City Police Department. The crime inquiry and inspection report shall be designed by the Director of Revenue and shall include the following:

- (1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- (2) A description of any damage to the property noted by the law enforcement officer authorizing the tow;
- (3) The license plate or registration number and the state of issuance, if available;
- (4) The storage location of the towed property;
- (5) The name, telephone number and address of the towing company;
- (6) The date, place and reason for the towing of the abandoned property;
- (7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system, and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the City Police Department;
- (8) The signature and printed name of the law enforcement officer authorizing the tow and the towing operator; and
- (9) Any additional information the Missouri Director of Revenue deems appropriate.

(C) Reclaiming property. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

§304.155.6 R.S.Mo.

(D) Lienholder repossession. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the City Police Department within two (2) hours of the repossession and shall further provide the Police Department with any additional information the Police Department deems appropriate. The City Police Department shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

§304.155.11 R.S.Mo.

(E) Notice to owner/tow lien claim. Any towing company which comes into possession of abandoned property pursuant to this Article and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten (10) business days of the date of mailing indicated on the notice sent by the Missouri Department of Revenue pursuant to Section 304.156 R.S.Mo., by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;

(2) The date, reason and place from which the abandoned property was removed;

(3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;

(4) A statement that the storage firm claims a possessory lien for all such charges;

(5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;

(6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this Section to contest the propriety of such towing or removal;

(7) A statement that if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and

(8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

(F) Physical search of property. In the event that the Missouri Department of Revenue notifies the towing company that the records of the Department of Revenue fail to disclose the name of the owner or any lienholder of record, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents were found and a good faith effort has been made. For purposes of this Section, good faith effort means that the following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

(G) Petition in Circuit Court. The owner of the abandoned property removed pursuant to this Article or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to subsection (E) of this Section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The Missouri Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the Director of Revenue.

(H) Notice to owner. Notice as to the removal of any abandoned property pursuant to this Article shall be made in writing within five (5) working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:

- (1) The public agency authorizing the removal; or
- (2) The towing company, where authorization was made by an owner or lessee of real property.

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this Section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

§304.158.1 R.S.Mo.

(I) Tow truck requirements. Any towing company which tows abandoned property for hire shall have the towing company's name, city and state clearly printed in letters at least three (3) inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

§304.158.5 R.S.Mo.

(J) Storage facilities. Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this Article shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.

§304.158.7 R.S.Mo.

SECTION 17-298 Maximum charges.

(A) A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of this Article.

§304.156.2 R.S.Mo.

(B) The Board of Aldermen may from time to time establish maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the City, and which are consistent with this Article and with Sections 304.155 to 304.158 R.S.Mo. Any violation of said established maximum charges shall be deemed a violation of this Section of the Code and shall be punishable pursuant to Section (**insert general penalty provision here**).

§304.158.10 R.S.Mo.

(C) A towing company may impose a charge of not more than one-half (1/2) of the regular towing charge for the towing of abandoned property at the request of the owner of private real property or that owner's agent pursuant to this Article if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private real property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

§304.158.6 R.S.Mo.

SECTION 17-299 Sale of abandoned property by City.

When the City has physical possession of the abandoned property, it may sell the abandoned property in accordance with its established provisions and regulations and may transfer ownership by means of a bill of sale signed by the City Clerk and sealed with the official City seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of Section 301.218 R.S.Mo. or Section 301.560 R.S.Mo., or for any other person.

§304.156 R.S.Mo.

Section Two.

This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

PASSED BY THE BOARD OF ALDERMEN FOR THE CITY OF BELLEFONTAINE NEIGHBORS
THIS DAY OF , 1999.

Presiding Officer

Attest:

Charlotte Youngman, City Clerk

APPROVED THIS DAY OF , 1999.

Marty Rudloff, Mayor

Attest:

Charlotte Youngman, City Clerk