

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MACON, MISSOURI, AMENDING THE CITY CODE AMENDING PROVISIONS REGARDING ABANDONED AND DERELICT MOTOR VEHICLES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MACON, MISSOURI AS FOLLOWS:

SECTION 1:

Chapter 12, Article II, Division 3 is hereby repealed, and one new Division enacted in lieu thereof, to read as follows:

DIVISION 3. ABANDONED OR DERELICT VEHICLES

Sec.12-56 Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

“Abandoned Motor Vehicle” any unattended motor vehicle, trailer, off-road vehicle, outboard motor, or vessel removed or subject to removal from public or private property as provided in this article, whether or not operational. [RSMo. 304.001(1)]. A motor vehicle shall be deemed to have been abandoned in the following circumstances:

1. It has been left unattended upon a street or highway in violation of a statute or ordinance regulating or prohibiting parking for a period of 24 hours; or
2. It is left unaccompanied on property owned or operated by the city, other than a street, without permission, or in a location not authorized for parking at any time, or in a parking spot designated as being subject to towing (a “tow-away zone”), or any street or highway for a period of not less than 48 hours.

“Derelict Vehicle” any vehicle that is abandoned, deserted, nonoperative, partially dismantled, wrecked, junked or of similar condition, or does not display thereon a current valid license plate.

“Designated Tow Yard” a service station, garage or another place of safety that has contracted with the City to receive vehicles towed on the authorization of the city as provided herein.

Sec.12-57 Abandoned Vehicles on Streets and Public Property.

- a. Police officers are authorized to have a motor vehicle removed from a street, highway, or city property to a designated tow yard:
 1. When any vehicle is left unattended upon any street, bridge, highway, or in any tunnel where such vehicle constitutes an obstruction to traffic; or

2. When a vehicle upon a highway is disabled so as to constitute an obstruction to traffic, and the person in charge of the vehicle is, by reason of physical injury is incapacitated to such an extent as to be unable to provide for its custody or removal; or
 3. When any vehicle is left unattended upon a street and ~~is~~ is parked improperly so as to constitute a definite hazard or obstruction to the normal movement of traffic, or is parked illegally; or
 4. Is an Abandoned Motor Vehicle as defined herein on public property; or
 5. When a Derelict Vehicle has been left unattended on a city street.
- b. Any motor vehicle removed under the terms of Sec. 12-57 shall be removed in compliance with the procedures contained in Section Sec. 12-59.

Sec.12-58 Derelict Vehicles on Private Property.

- a. No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee, or otherwise shall allow any Derelict Vehicle to remain on such property for longer than 72 hours, except:
 1. When in an enclosed building; or
 2. On the premises of a business whose function includes the repair or storage of vehicles, including Derelict Vehicles operating in a lawful place and manner provided that any wrecked or Derelict Vehicles shall not be placed outside a building for more than 90 days and further provided that if the wrecked vehicle is a semi-trailer the number of days it can remain outside shall be limited to 45 days; or
 3. At a Designated Tow Yard.
- b. Any Derelict Vehicle~~s~~ in violation of Sec. 12-58(a), above, are declared to be a nuisance and a public health hazard and are subject to the nuisance abatement procedure in addition to any other remedies. In addition, the City Attorney, or person acting as such, is authorized to seek a court order to have such vehicles removed by administrative search warrant, injunction, or such other remedy as may be available.
- c. Any person in charge or control any property within the city whether as owner, tenant, occupant, lessee or otherwise, allowing a Derelict Vehicle to remain on the said person's property after receiving notice is guilty of an ordinance violation. Each day after the notice is received shall constitute a separate offense.
- d. No person shall park or leave standing any motor vehicle upon any privately owned land, parking lot or driveway, not generally open to the public without the express or implied consent of the owner, occupant, lessee, or licensee of the land.
- e. No person shall park any vehicle on a private parking lot that has signs prohibiting or restricting parking. A suitable sign, not less than 18 inches by 24 inches in dimension

bearing the words "No Parking," together with any qualifications or restrictions on such parking written in red letters with a white background, shall be conspicuously displayed on such parking lot to make this subsection effective. Any vehicle in violation of this subsection may be towed at the direction and expense of the owner of the property.

- f. Sub-Section e, above, shall not apply to a shared lot without the consent of all of the owners.

Sec.12-59 Procedure for Removal of Vehicles.

- a. Any police officer authorized the tow shall make an inquiry with the statewide computer system (MULES) and National crime Information Center (NCIC) to determine if the abandoned property has been reported stolen. The Police Department shall enter the abandoned property information into the statewide computer system.
- b. For vehicles being towed because they are blocking or impairing traffic;
 - 1. If the owner of the vehicle is present or can be contacted, the vehicle should be towed by a towing company selected by the owner, unless doing so would infringe on public safety.
 - 2. If the owner is not present and cannot be contacted, the vehicle should be towed by a towing service that has a contract with the City.
- c. Vehicles which are being towed from public property, except those being towed under Sub-Section b of this Section, shall be towed to a Designated Tow Yard. The Police Officer authorizing the tow may, but is not required to, give notice to the owner of the vehicle prior to the tow. The Police Department shall keep a list of all vehicles towed under this Subsection.
- d. All tows shall be done at the cost of the vehicle owner, including any applicable storage fee, and the towing company is authorized to hold such vehicle until such time as those fees are paid.
- e. The owner of any vehicle on private property, except vehicle towed by the authority of the private property owner, shall be entitled to notice and an opportunity for a hearing as provided in Sec. 12-61.
- f. The notice shall state:
 - 1. The reason the Vehicle is in violation of this chapter;
 - 2. The name of the Police Officer or Code Enforcement Officer serving the notice;
 - 3. The date of the notice;
 - 4. What the owner needs to do to come into compliance;
 - 5. That the owner has the right to a hearing; and

6. That if the owner does not bring the vehicle into compliance or request a hearing the vehicle will be towed at the owner's expense.

Sec.12-60 Duty of Owner to Remove the Public Property.

If a motor vehicle is abandoned or derelict on a public street or highway, it shall be the duty and responsibility of the owner of such motor vehicle to cause the removal thereof immediately.

Sec.12-61 Notification to the Owner; Hearing.

Any person receiving a notice that he or she is in violation of this code by allowing an Abandoned or Derelict vehicle, boat, or trailer to remain on that person's property, or any person with a legal interest in the vehicle, may appeal that finding by requesting a hearing. Such request must be in writing and delivered to the City Clerk within 10 business days of the receipt of the notice. Such notice shall toll any additional action on the matter by the City. Upon such a request the City Administrator or her designee shall conduct a hearing, to determine (1) if the vehicle is abandoned or derelict, and (2) if the vehicle is on private property, and (3) Whether the vehicle was properly stored as provided in Section 12-57 a. After hearing the evidence, the hearing officer shall issue a written finding reversing or upholding the issuance of the notice. If the notice is upheld, the person shall immediately cause the vehicle to be removed or properly stored or do so within a time designated by the hearing officer.

Sec.12-62 Reclamation.

Upon notification by the police department, the owner of an impounded motor vehicle may, upon furnishing satisfactory evidence of his identity and of his ownership of the vehicle, obtain a release from the police department, and upon payment of towing, storing charges, any fines or penalties, and costs as set for in Section 12-58, remove such motor vehicle from the impounding area.

Sec.12-63 Trailers.

The provisions of this division shall be applicable to trailers or wagons in a wrecked, junked, discarded, abandoned, partially dismantled, nonoperable, or otherwise derelict condition.

Sec.12-64 Administrative Search Warrants for Property with Derelict Vehicles or Trailers.

- a. An administrative search warrant is a written order of the Municipal **Division of the Circuit** Court commanding the search of property to determine if abandoned or derelict vehicles and/or derelict trailers or wagons are located thereon, related to the compliance of the city's ordinances.
- b. An administrative search warrant may be issued for entry upon the property where a derelict vehicle is located after the owner has been given notice and an opportunity for a hearing as provided in this Article.

- c. Any commissioned officer of the City Police Department, or a Code Enforcement Officer, or the City Attorney, may make an application for the issuance of an administrative search warrant to the Municipal Division of the Circuit Court, and said application shall:
 - 1. Be in writing;
 - 2. State the time and date of the making of the application;
 - 3. Identify the property which is to be searched in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - 4. Identify the abandoned or derelict vehicle or the derelict trailer or wagon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - 5. State the facts sufficient to show that the vehicle is in violation of this Article;
 - 6. Be verified by the oath of affirmation of the applicant;
 - 7. Be signed by the City Attorney.
- d. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is reasonable cause for the issuance of an administrative search warrant and the seizure of the vehicle or vehicles in question.
- e. The Judge of the Municipal Division of the Circuit Court shall hold a nonadversarial hearing to determine whether sufficient facts have been stated to justify the issuance of an administrative search warrant. If it appears from the application and any supporting affidavit that there is reasonable suspicion to believe that there is a derelict vehicle on private property in violation of the provisions of this Article, then an administrative search warrant shall be issued in the form of an original and two copies directing the Police Department (even if the applicant was not an officer) to enter upon the property and remove the vehicle.
- f. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the Municipal Division of the Circuit Court.
- g. The administrative search warrant shall:
 - 1. Be in writing;
 - 2. Be directed to a commissioned officer of the city police department;
 - 3. State the time and date the warrant is issued;
 - 4. Identify the Derelict Vehicle which is to be seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - 5. Be signed by the Judge of the Municipal Division of the Circuit Court.

- h. An ~~administration~~ administrative search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application;
- i. After execution of the administrative search warrant, the warrant with a return thereon, signed by the officer seizing the vehicle, shall be delivered to the Court. The return shall show the date and manner of execution, the name of the possessor and the name of the owner of the property, when they are not the same person, if known, and the name of the possessor and the name of the owner of the derelict vehicle, when they are not the same, if known.
- j. An administrative search warrant shall be deemed invalid if;
 - 1. If it was not issued by the Judge of the Municipal Division of the Circuit Court;
 - 2. If it was issued without a written application having been filed and verified;
 - 3. If it was issued without reasonable suspicion;
 - 4. If it does not describe the property to be searched or the abandoned or derelict vehicle or the derelict trailer or wagon with sufficient certainty;
 - 5. If it is not signed by the Judge of the Municipal Division of the Circuit Court who issued it;
 - 6. If it is not executed within the time prescribed.

SECTION 2:

The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

SECTION 3:

This ordinance shall be in full force and effect from and after its date of passage and approval.

1st Reading: 07-13-2021

2nd Reading: 07-13-2021

PASSED AND APPROVED this 13 day of JULY , 2021.

(SEAL)

James T Holman, Mayor

Attest: _____
Mary Lou Craig, City Clerk