

CHAPTER 95: ABANDONED, JUNK AND UNAUTHORIZED VEHICLES

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§ 95.01 PURPOSE.

It is the purpose of this chapter to define the types of vehicles that can be taken into custody, impounded and sold by the city and to regulate the removal, impoundment and sale of said vehicles. (Ord. 500, passed 12-23-99)

§ 95.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLES. A motor vehicle that:

(1) Has remained:

(a) For a period of more than 48 hours on any property owned or controlled by any unit of government or on any street or highway or more than four hours on that property when it is properly posted, or on private property for 30 days or more, without the consent of the person in control of the property; and

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(b) Lacks vital component parts or is in inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(2) Classic cars or pioneer cars as defined in M.S. § 168.10, as amended from time to time, are not considered abandoned vehicles. Vehicles on the premises of junk yards and automobile grave yards that are defined, maintained and licensed in accordance with M.S. § 161.242, as amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations are not considered abandoned vehicles. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

AGENCY. The Minnesota Pollution Control Agency.

DEPARTMENT. The Minnesota Department of Public Safety.

IMPOUND. To take and hold the vehicle in legal custody. There are two types of impounds, public and non-public.

IMPOUND LOT OPERATOR or OWNER. A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles.

JUNK VEHICLE. A motor vehicle that:

- (1) Is three years old or older and is damaged, with the damage including such things as broken or missing wheels, motor, drive train or transmission;
- (2) Is three years old or older and is apparently inoperable;
- (3) Is three years old or older and does not have a valid current registration plate; or
- (4) Has an approximate fair market value equal only to the approximate value of the scrap in it.

UNAUTHORIZED VEHICLE. A motor vehicle that:

- (1) Is subject to removal and impoundment pursuant to M.S. § 169.041 or M.S. § 168B.04, subd. 2, as amended from time to time, including, but not limited to the removal of a motor vehicle from public property for a parking or traffic violation four hours after issuance of the traffic ticket or citation;

- (2) Is parked in violation of snow emergency regulations, blocking driveways, alleys or fire hydrants;
- (3) Is parked in bus lanes or bus stops during hours when parking is prohibited;
- (4) Is parked within 30 feet of a stop sign and visually blocking the stop sign;
- (5) Is parked in a handicapped transfer zone or handicapped parking space without a handicapped parking certificate or license plates;
- (6) Is parked in an area that has been posted with temporary restricted parking;
- (7) Is parked within the right-of-way of a controlled access highway or within the travel portion of a public street when travel is allowed there;
- (8) Is unlawfully parked in a zone that is restricted by posted signs to be used by fire, police and public safety emergency vehicles;
- (9) A law enforcement official has probable cause to believe that the vehicle may constitute or may contain evidence of a crime;
- (10) The driver, operator or person in physical control of the vehicle has been taken into custody and the vehicle is impounded for safe keeping;
- (11) A law enforcement official has probable cause to believe that the owner, operator or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses;
- (12) Is unlawfully parked and presents a risk for a lawfully parked vehicle;
- (13) Is parked on a school day during prohibited hours in a school zone on a public street where official signs prohibit parking;
- (14) Has been left unattended on a public highway and properly tagged by a peace officer after four hours;
- (15) Is unattended and located so as to constitute an accident or traffic hazard to the traveling public as determined by a peace officer;

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(16) Is left unattended in a parking facility or other public property owned and controlled by a unit of government that has been properly posted after four hours;

(17) Is left unattended on private property not owned or occupied by the owner of the motor vehicle for the time period stated below:

- (a) Property that is a single family or duplex residential property, immediately;
- (b) Property that is private, nonresidential property, properly posted, immediately;
- (c) Property that is private, nonresidential property, not posted after 24 hours; or
- (d) Property that is any residential property, properly posted, immediately.

MOTOR VEHICLE or **VEHICLE**. Every vehicle which is self-propelled and also means trailers or wagons requiring licenses under applicable state law.

MOTOR VEHICLE WASTE. Solid waste and liquid waste derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

NON-PUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

OPERATOR. An operator of a public or non-public impound lot, regardless of whether a tow-truck service is provided.

PUBLIC IMPOUND LOT. An impound lot owned by or contracting with the city or any other governmental organization.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train, transmission and wheels. (Ord. 500, passed 12-23-99; Am. Ord. 500, passed 1-23-02)

§ 95.03 AUTHORITY TO IMPOUND VEHICLES.

(A) *Abandoned or junk vehicles*. The city and its Police Department may take into custody and impound any abandoned or junk vehicles.

(B) *Unauthorized vehicles*. The city and its Police Department may take into custody and impound any unauthorized vehicle as defined in § 95.02. (Ord. 500, passed 12-23-99)

§ 95.04 SALE; WAITING PERIODS.

(A) *Sale of abandoned and junk vehicles.* An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be:

(1) A junk vehicle except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or

(2) An abandoned vehicle.

(B) *Sale of unauthorized vehicles.* An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.

(C) *Notice of taking and sale.*

(1) *Contents; notice given within ten days.* When an impounded vehicle is taken into custody, the city shall give notice of the taking within ten days. The notice shall:

(a) Set forth the date and place of the taking, the year, make, model and serial number of the impounded motor vehicle if such information can be reasonably obtained and the place where the vehicle is being held;

(b) Inform the owner and any lien holders of their right to reclaim the vehicle; and

(c) State that failure of the owner or lien holders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under this section shall be deemed a waiver by them of all right, title and interest in the vehicle and consent to the transfer of title to and disposal or sale of the vehicle and contents.

(2) *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of any impounded vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty that the identity and address of the registered owner and all lien holders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

(3) *Unauthorized vehicles.* If an unauthorized vehicle remains unclaimed after 30 days from the date that notice was sent, a second notice shall be sent by certified mail, return receipt requested to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

(Ord. 500, passed 12-23-99)

§ 95.05 RIGHT TO RECLAIM.

(A) *Payment of charges.* The owner or any lien holder of an impounded vehicle shall have a right to reclaim such vehicle from the city or its contracted impound lot operator taking such vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days as applicable under and after notice as required by § 95.04.

(B) *Lien holders.* Nothing in this chapter shall be construed to impair any lien of a garage keeper under the laws of the State of Minnesota or the right of a lien holder to foreclose. For the purposes of this section **GARAGE KEEPER** is an operator of a parking place or establishment, operator of a storage facility or an operator of an establishment for the servicing, repair or maintenance of motor vehicles. (Ord. 500, passed 12-23-99)

§ 95.06 DISPOSITION BY IMPOUND LOT.

(A) *Auction or sale.*

(1) If an abandoned, junk or unauthorized vehicle and contents taken into custody by a unit of government or contracted impound lot is not reclaimed under § 95.08, it may be disposed of or sold at auction or sale when eligible pursuant to the previous sections.

(2) The purchaser shall be given a receipt in the form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) *Abandoned or unsold vehicles.* Abandoned or junk vehicles not sold by the city or its contracted impound lot shall be disposed of in accordance with § 95.07.

(C) *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or its contracted impound lot of an abandoned, junk or unauthorized vehicle, the city shall reimburse itself for the costs of towing, preserving and storing the vehicle and all administrative, notice and publication costs incurred in handling the vehicle pursuant to the previous sections. Any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the treasury of the city.

(Ord. 500, passed 12-23-99)

§ 95.07 DISPOSAL AUTHORITY.

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and, if no bids are received, may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal; provided however, that the city may utilize its own equipment and personnel for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120 days.

(Ord. 500, passed 12-23-99)

§ 95.08 CONTRACTS; REIMBURSEMENT BY AGENCY.

(A) *Agency review and approval.* If the city enters into a contract with a person licensed by the Minnesota Pollution Control Agency pursuant to this chapter or a contract pursuant to the previous section, the Minnesota Pollution Control Agency may review the contract to determine whether it conforms to the agencies plan for solid waste management and its compliance with agency rules. If the Minnesota Pollution Control Agency approves the contract, the city may seek reimbursement for costs incurred under the contract that have not been reimbursed.

(B) *City equipment.* If the city uses its own equipment and personnel and the use of the equipment and personnel conforms to the Minnesota Pollution Control Agency's plan for solid waste management and is in compliance with agency rules, the city may be reimbursed by the Minnesota Pollution Control Agency for reasonable costs incurred which had not been reimbursed.

(Ord. 500, passed 12-23-99)

§ 95.09 PUBLIC NUISANCE.

Without limiting any other remedy or course of action available to the city for violations of this chapter, abandoned, junk and unauthorized motor vehicles are declared a public nuisance affecting public peace and safety. The enforcement of this section of possible abatement of the nuisance is provided for in Chapter 96 to this code of ordinances.

(Ord. 500, passed 12-23-99)

Cross-reference:

Nuisances, see Ch. 96

§ 95.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and punished as provided in § 10.99.

(Ord. 500, passed 12-23-99)