

## TITLE III COMMUNITY PROTECTION

### CHAPTER 10 JUNK AND ABANDONED VEHICLES

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**3-10-1 PURPOSE.** The purpose of this Chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

**3-10-2 DEFINITIONS.** For the purpose of this Chapter, the following terms are defined as follows:

1. "Abandoned vehicle" shall mean any of the following:

a. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe;

(Code of Iowa, Sec. 321.89(1)(a)(1))

b. A vehicle that has remained illegally on public property for more than twenty-four (24) hours;

(Code of Iowa, Sec. 321.89(1)(a)(2))

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours;

(Code of Iowa, Sec. 321.89(1)(a)(3))

d. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten (10) days; or

(Code of Iowa, Sec. 321.89(1)(a)(4))

e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(a)(5))

2. "Private property" shall mean any real property within the City which is not public property as defined in this section.

3. "Public property" shall mean any public right-of-way open for the purposes of vehicular travel.

4. A "junk vehicle" shall mean any vehicle without current license plates or which has any one of the following characteristics:

a. Any vehicle which has a missing or broken component or structural part, including but not limited to: windshield or window glass, fender, door, door handle, bumper, hood, steering wheel, driver's seat, trunk, trunk handle, fuel tank, tail pipe, two or more wheels, engine, drive shaft, differential, battery, generator or alternator or other component part of an electrical stem, or any component or structural part;

b. Any vehicle used for general storage purposes, or for the harboring, keeping, caging or otherwise as a dwelling for animals of any kind;

c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects;

d. Any vehicle which contains gasoline or any other flammable fuel not contained in the vehicle's fuel cell as installed by the manufacturer of the vehicle; or

e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

Editor's Note: The Iowa Supreme Court has upheld what constitutes "junk vehicle." You should consult with your City Attorney for an opinion on whether your City Ordinance is in conformance. See City of Cedar Falls v. Flett, 330 N.W.2d 251 (Iowa 1983).

5. "Vehicle" shall mean every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

### **3-10-3 REMOVAL OF ABANDONED VEHICLES.**

1. The Chief of Police or Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The Chief of Police or Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this Chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police or Mayor if the Chief of Police is unavailable, shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

(Code of Iowa, Sec. 321.89(2))

4. Nothing in this Chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this Chapter.

### **3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.**

1. When a vehicle is taken into custody under the provisions of this Chapter or under any provisions of State law, the Chief of Police or Mayor if the Chief of Police is unavailable, shall notify, within seven (7) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle;
- b. Describe the personal property found in the vehicle;
- c. Describe the location of the facility where the vehicle is being held; and
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle; and

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6;

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period; and

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.

(Code of Iowa, Sec. 321.89(3)(a))

2. The owner, lienholders or any person receiving notice may, by written request received by the Chief of Police prior to the expiration of the ten (10) day reclaiming period, obtain an additional fourteen (14) days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this Chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

a. the identity of the last registered owner cannot be determined,

b. the registration contains no address for the owner, or

c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

(Code of Iowa, Sec. 321.89(3)(b))

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten (10) day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

### **3-10-5 IMPOUNDMENT FEES AND BOND.**

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this Chapter or any other provision of law may recover such vehicle, such person shall present to the Chief of Police or Mayor if the Chief of Police is unavailable, evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

- a. an impoundment fee;
- b. towing charges;
- c. preservation charges;
- d. storage charges; and
- e. notice charges

(Code of Iowa, Sec. 321.89(3)(a))

2. The amount of the charges specified in subsections a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

a. the fees required by Section 3-10-5(1); and

b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

### **3-10-6 HEARING PROCEDURES.**

1. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to Section 1-4-1..

(Code of Iowa, Sec. 321.89(3))

**3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES.** The Chief of Police shall follow the procedures as provided in Section 321.89(4) of the Iowa Code in State law for the auction or disposal of abandoned vehicles.

**3-10-8 JUNK VEHICLES DECLARED A NUISANCE.** Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Scranton, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

(Code of Iowa, Sec. 364.12(3)(a))

### **3-10-9 NOTICE TO ABATE.**

1. Whenever the Chief of Police or Mayor if the Chief of Police is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Chief of Police shall notify, by certified mail with five (5) days' return receipt, the following persons:

- a. the owner of the property; and
- b. the occupant of the property.

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle;
- b. describe the location of the vehicle;
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter; and
- d. state that the owner of the property shall remove or repair the said junk vehicle within seven (7) days.

**3-10-10 ABATEMENT BY MUNICIPALITY.** If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate. The City shall keep an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

(Code of Iowa, Sec. 364.12(3)(h))

**3-10-11 COLLECTION OF COST OF ABATEMENT.** The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, Sec. 364.12(3)(h))

**3-10-12 EXCEPTIONS.** This chapter shall not apply to the following:

1. A vehicle in an enclosed building;
2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise; and
3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

**3-10-13 INTERFERENCE WITH ENFORCEMENT.** No person shall interfere in any way with the enforcement provision of this Chapter.

**3-10-14 STORAGE OF VEHICLES.** In as much as it is found that the storage of vehicles, which are not deemed to be junk vehicles, out of doors can detract from the beneficial use and enjoyment of neighboring properties, certain special regulations are established as follows:

1. No person shall keep, store or display one or more vehicles out of doors on property zoned for residential use, or permit the parking out of doors of a vehicle on residentially zoned property under their ownership, possession or control for more than fifteen (15) days without movement and use of said vehicle as an operating vehicle.

2. No person shall store or display one or more vehicles out of doors on property zoned for commercial use, or permit the parking out of doors of a vehicle on commercially zoned property under their ownership, possession or control for more than one year without movement and use of said vehicle as an operating vehicle.

3. The provision of subsection (2) notwithstanding the keeping, parking or storage, out of doors, of any wrecked or demolished vehicle, or vehicle stripped for parts, at the same commercially zoned site for more than one hundred eighty days is prohibited.

4. The following shall be exempt from the regulations of this section:

a. Vehicles kept in a garage or other enclosed structure.

b. Vehicles kept in commercial automobile salvage yards lawfully established and existing prior to January 1, 2013.

c. A "motor home", pickup truck with camper top, converted bus or van, or similar recreational vehicle, which is operable and currently licensed for operation on the public highways.

d. A vehicle currently licensed for operation on the public highways and lawfully parked off the streets while the owner or other person in lawful possession and control thereof, if a resident of this city, is out of the city for more than fifteen (15) days but not more than ninety days.

e. Vehicles which are immobilized pursuant to an immobilization order of the District Court.

