

AN ORDINANCE DEFINING JUNK OR ABANDONED VEHICLES:

DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein.

- (a) "Chief" is the Chief of Police of the City of Buffalo, Iowa, or his designee.
- (b) "Motor Vehicle" is any vehicle which is self propelled, and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, gocarts, golfcarts, campers and trailers.
- (c) "Abandoned Motor Vehicle" is any motor vehicle as defined by Subsection (b) of this Section 21-362 which does not have lawfully fixed thereto an unexpired license plate or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.
- (d) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (e) "Private Property" shall mean any real property within the City which is privately owned and which is not public property as defined in this Section.
- (f) "Public Property" shall mean any street or highway publicly owned for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

STORING, PARKING OR LEAVING ABANDONED MOTOR VEHICLES PROHIBITED AND DECLARED A NUISANCE - EXCEPTIONS.

No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle which is in an abandoned, wrecked, dismantled, inoperative, junked or partially thereof, upon any public or private property within the City for a period in excess of 48 hours. The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled vehicle or parts thereof, on public or private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Ordinance. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a junkyard, lawfully licensed by the City and properly operated in the appropriate zone, pursuant to the zoning laws of the City, or to any motor vehicle in operative condition specifically adopted or designed for operation upon drag strips or raceways, or any vehicle retained by the owner for bona fide antique collection purposes.

NOTICE TO REMOVE:

Whenever it comes to the attention of the Chief that any nuisances described in Section 21-363 of this Chapter exists in the City, a notice of the existence of the nuisance and a request for its removal in the time specified in this Ordinance shall be served

by certified mail to:

- (a) The property owner as shown by the records of the County Auditor if said motor vehicle be on private property, and
- (b) The registered owner thereof at the last known address of said registered owner as shown by official records of the jurisdiction in which said motor vehicle is lawfully registered and entitled, and
- (c) By attaching a notice securely to said motor vehicle.

LOCATION OF VEHICLES ON PRIVATE PROPERTY AND ATTACHMENT OF NOTICE:

The Mayor is hereby given authority to authorize any employee of the City to investigate, locate and identify abandoned motor vehicles on private property. Such authorized employee is authorized and directed and shall have full power to execute and attach the prescribed removal notice to such abandonment motor vehicles and shall promptly thereafter give a full report of his acts and doings with respect thereto to the Chief on forms prescribed by the Chief. Thereafter the Chief shall take all further actions required or permitted under the provisions of this article.

NOTICE PROCEDURE AND HEARING:

- (a) The Chief shall give notice of removal to the owner of the motor vehicle and, if on private property, to the owner of the private property where it is located, at least 7 days before the time of compliance. Notice shall be deemed given when mailed. When the registered owner of the motor vehicle cannot be ascertained, notice affixed to the vehicle shall be sufficient and shall be deemed given when so affixed.
- (b) The notice shall contain the request for removal within the time specified in the notice, and the notice shall advise that upon failure to comply with the notice to remove, the Chief shall undertake such removal and that the costs of removal, notification, preservation, storage and sale of said motor vehicle will be collected from the sale or redemption of said motor vehicle and, where the vehicle is found on private property, if the proceeds of such sale are not sufficient for payment of such costs, the balance will be assessed against the property for collection in the same manner as a property tax. The notice shall also advise as to the right to hearing as hereafter provided.
- (c) The persons to whom the notices are directed, or duly authorized agents, may file a written request for hearing before the police and license committee of the City Council of the City of Buffalo, Iowa, or its designee within the period for compliance stated in the notice, for the purpose of defending the charges by the City. Such request shall contain the address of appellant to which all further notices to appellant shall be mailed or served.
- (d) The hearing shall be held as soon as practicable after the filing of the request and the persons requesting the hearing shall be advised of the time and place of such hearing at least three (3) days in advance thereof. At any such hearing the Chief and any person requesting said hearing may introduce such witnesses and evidence any party deems necessary.

OBTAINING REGISTRATION INFORMATION:

When the Chief does not know the identity of the registered owner or other legally entitled person, the Chief shall cause the state motor vehicle registration records to be searched for the purpose of obtaining the required ownership information. The Chief shall also make inquiry of local, state and national stolen motor vehicle files. Such inquiries shall be by teletype or, if available, through computer terminals.

If the vehicle appears to be registered in another state the Chief shall make similar inquiry by teletype of such other state, provided, however, that if the registration or ownership information is not returned to the Chief within 24 hours of such inquiry, the only notice to be given prior to towing shall be any notice required to be affixed to the motor vehicle by other provisions of this chapter.

In the event that there is insufficient information on or in the motor vehicle to identify said vehicle or to identify the state of its registration, no notice need be given prior to towing, other than any notice required to be affixed to the vehicle by other provisions of this chapter.

REMOVAL OF MOTOR VEHICLE:

If the violation described in the notice has not been remedied within the period of compliance stated in the notice, or, in the event that a notice requesting a hearing is timely filed, a hearing is had and the existence of a violation is affirmed by the police and license committee or its designee, the Chief is authorized to remove and tow away, or have removed and towed away by commercial towing service, the abandoned motor vehicle, provided that the Chief shall not take possession of the motor vehicle involved until 48 hours after each appellant is notified of such determination. The determination may be made at the hearing and delivered orally. If not given orally at the hearing it shall be reduced to writing and served upon each appellant either by personal service or by certified mail. The police and license committee may at the time of hearing or in the written notification, extend the time for removal to a period longer than seven (7) days. Written notification shall be deemed given when served or when mailed, as the case may be. It shall be unlawful for any person to interfere with, hinder or refuse to allow the chief, or the chief's designee to enter upon private property for the purpose of removing a vehicle under the provisions of this ordinance. The motor vehicle so towed shall be impounded at such place or places as the city council shall from time to time designate.

EMERGENCY:

In a situation of clear and compelling emergency, the chief is authorized to remove and tow away, or have removed and towed away by a commercial towing service, any vehicle declared a nuisance under "Storing, Parking or Leaving Abandoned Motor Vehicles Prohibited and Declared A Nuisance - Exceptions," hereunder without prior notice and opportunity for hearing.

CERTAIN ILLEGALLY PARKED VEHICLES DECLARED A NUISANCE PER SE:

Any motor vehicle illegally parked, standing, stored or placed within the city under any one of the following circumstances, to wit:

- (a) Where such vehicle blocks ingress and egress to and from a private driveway without the consent of the owner or the person in control of the property served thereby;
- (b) Which remains on private property without the permission of the owner or person in control of the private property;
- (c) Which is in violation of parking restrictions in residential areas where parking meters are not in operation;
- (d) Which is in violation of any ordinance regulating snow routes or snow removal;
- (e) Which obstructs or may obstruct movement of any emergency vehicle;
- (f) Which impedes or interferes with or may impede or interfere with the normal flow of traffic or with the ability of operators of motor vehicles to keep a proper lookout or with the ability of pedestrians crossing at marked or unmarked crosswalks to keep a proper look out;
- (g) Which obstructs or interferes with or may interfere with the use of fire hndrant;
- (h) Which vehicle has displayed thereon a registration card, registration plate, validation certificate or permit not issued for such vehicle;
- (i) Which vehicle has displayed thereupon an altered, forged or counterfeited registration card, registration plate, validation certificate or permit;
- (j) Which is in violation of any ordinance imposing alternate day parking restrictions;
- (k) Which is in violation of posted signs temporarily prohibiting parking during street resurfacing or oiling and which by its presence obstructs such resurfacing activities;

is hereby declared to be a nuisance per se and the chief is hereby authorized and empowered to remove and tow away, or have removed and towed away by commercial towing service, any motor vehicle so illegally parked. Motor vehicles so towed shall be stored in such impoundment areas or places as the city council may from time to time designate.

Motor Vehicles In Violation Of Registration Laws, Etc.:

No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind on public property which does not have lawfully affixed thereto current unexpired registration plates or validation stickers as required by the law of the State of Iowa. The presence of such motor vehicle is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter. The procedure for abatement shall be the same as is provided in the previous six chapters. In the event that notice to remove such vehicle from public property has been given and such vehicle has been removed from public property during the time allowed therefore, and in the event that such vehicle subsequently shall again during the same calendar year be found parked, stored, or standing on public property without current unexpired registered plates or validation sticker properly attached to said motor vehicle as required by the laws of the State of Iowa, the chief is authorized, empowered and directed to remove and tow away, or have removed and towed away by commercial towing service, such motor vehicle without any further notice or opportunity for hearing.

Procedures Following Removal:

In the event a motor vehicle has been taken into custody under the provisions of this Chapter, or of any other Chapter of the Municipal Code of the City of Buffalo, Iowa, or under any provisions of the State of Iowa, wherein no prior notice has been given, the following procedures shall be followed:

- (a) The police department, when taking into custody a vehicle, shall notify, within ten days, by certified mail, the last known registered owner of the vehicle and all lienholders of record, addressed to their last known address of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and serial number of the vehicle, set forth the location of the facility where it is being held, inform the owner and any lienholders of their right to reclaim the vehicle within twenty-one days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, claim and interest in the vehicle and that such 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. If the owner and lienholders do not exercise their right to reclaim such vehicle within the twenty-one-day reclaiming period, such owner and lienholders shall no longer have any right, title, claim, or interest in or to such vehicle. No court in any case in law or equity shall recognize any right, title, claim, or interest of any such owner and lienholders after the expiration of the twenty-one-day reclaiming period.

- (b) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in subsection (a) of this section.
- (c) The owner or any lienholders may, by written request delivered to the police authority prior to the expiration of the twenty-one-day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

Responsibility For Removal And Costs:

Upon prior notice and opportunity to be heard, the owner of a vehicle which is located in violation of this Chapter, and where located on private property, the owner of the private property where the same is located, shall both or either of them be liable for the costs and expenses incurred. Upon the failure of the owner of the property from which the vehicle was removed by the City to pay the unrecovered expenses and costs of removal, preservation, storage, notification, advertisement for sale and sale expenses incurred by the city, such unrecovered costs shall be assessed against the property in the same manner as a property tax. Where such motor vehicle was placed upon private property without the consent of the owner or person in control thereof or where such motor vehicle remains on private property without the consent of the owner or person in control thereof, such unrecovered expenses and costs shall not be assessed against said property.

Records To Be Kept:

When a motor vehicle is taken into custody and impounded under the provisions of this ordinance, the chief 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.

RETURN OF VEHICLES AND PERSONAL PROPERTY:

Before the owner of other person lawfully entitled to possession of any vehicle which has been impounded under the provisions of this Chapter or any other provision of law or other chapter of the Municipal code of the City of Buffalo, Iowa, such person shall present to the chief evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, shall pay the costs of removal, preservation, storage, notification and preliminary costs of sale, if any.

ABANDONED NOTICE INFORMATION FORM

Please FILL OUT AND RETURN TO ADMINISTRATION OFFICER FOR PROCESSING.

Serial No. _____
Officer's Name _____

Location of Vehicle _____

Owner of Vehicle _____

Address _____

Make, Model (2 dr., etc.), Year, Color _____

When and How Obtained _____

V.I.N./Serial No. _____

Property Owner _____

License No. _____

Address _____

License Year _____ Lic. State _____

When and How Obtained _____

Title No. (off 10-28 from radio) _____

Color of Tag _____

Date Tagged _____

Entered in Computer _____

Issuing Date: _____
(7 days from tag date) _____

Final Notice Posted (date) _____

Miles on Car _____

Certified Mail Notice (date) _____

Vehicle Owners Name (per 10-28 only): _____

To owner _____

To property owner _____

Address _____

Hearing Requested _____

Hearing Date _____

Hearing Disposition _____

Property Owners Name (private property only): _____

Remarks _____

Address _____

Remarks: Actual Owner if Known: Damage or missing

Items: _____

FINAL
NOTICE TO REMOVE
AN ABANDONED VEHICLE

TO: Vehicle Owner _____
Address _____
Property Owner (if any) _____
Address _____
Lienholder (if any) _____

NOTICE: The following is an abandoned vehicle as defined in Ordinance #_____, Municipal Code of the City of Buffalo, Iowa, as amended.

Make _____ Model _____
Year _____ Serial Number _____
Location _____

This motor vehicle is parked, stored or left at the above location in violation of said code. You are hereby notified THIS VEHICLE MUST BE REMOVED BEFORE .
IF NOT REMOVED, THIS VEHICLE WILL BE TOWED AWAY AND IMPOUNDED.

If impounded, this vehicle can be redeemed by paying costs of notifications, towing, storage and any other costs involved in the preservation of the vehicle. If not redeemed the vehicle will be sold as provided by law. If the vehicle is removed from private property any unrecovered costs may be assessed against the property.

You are entitled to a hearing, if requested in writing, before the Police and License Committee of the Buffalo City Council. The request must be filed with the City Clerk prior to _____. YOUR REQUEST MUST STATE YOUR MAILING ADDRESS, TO WHICH ALL FURTHER NOTICES ARE TO BE SENT.

BY ORDER OF

DATE

CHIEF OF POLICE
BUFFALO POLICE DEPARTMENT
BUFFALO, IOWA

BUFFALO POLICE DEPT.
409 - 3rd Street Buffalo, Iowa

TO:

NOTICE OF:

Certification to Owner

Certification to Lienholder

** Request for lienholder
information

Date: _____ Pound Number: _____
Year & Make: _____ Pound Phone: _____
V. I. N. #: _____ Pound Location: _____
Date Towed: _____ Pound Hours: _____

The above vehicle has been towed by the Davenport Police Department. It is presently at the indicated auto pound and is subject to both towing and accruing storage charges.

To retrieve this vehicle, the registered owner must present a certificate of title or proof of ownership in their name. Any person seeking a release of the vehicle on behalf of the owner must furnish written and notarized approval of the owner.

No vehicle will be released without current state and title transfer. No vehicle will be released without the approval of the commanding officer of the automotive pounds section, if the vehicle is being held for further investigation or evidence.

If a lienholder requests repossession of a vehicle, they must provide a photostatic copy of the original agreement and or title, with lien information on the title, and present to the automotive pounds section of the Police Department at 409 - 3rd Street, Buffalo, Iowa.

Towing and storage charges must be paid in cash. Checks or money orders are not acceptable. Please check with the pound for charges.

If you do not retrieve your vehicle within twenty-one (21) days, your inaction shall constitute a waiver of all your rights therein, and this vehicle with its contents, if any, will be disposed of according to provisions of the Iowa Vehicle Code 321.89.

** Please return this form with your reply. Thank you.

If lienholder, please list: _____

VEHICLES AS EVIDENCE:

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

DELEGATION OF POWERS AND DUTIES:

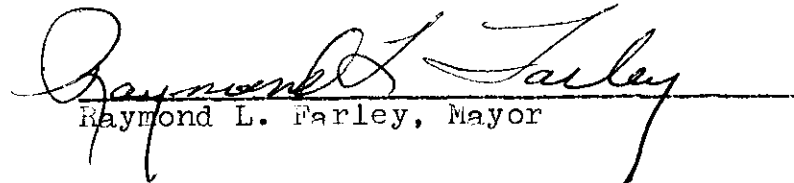
Chief of Police of the City of Buffalo, Iowa, Police Department is hereby authorized and empowered to delegate by written order to any or all of the officers of the Buffalo Police Department the authority and duties imposed upon the chief by the provisions of this ordinance.


SEVERABILITY CLAUSE:

If any section, provision or part of this Chapter shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Approved by the Buffalo City Council this 14th day of July, 1980

Approved by the Mayor of the City of Buffalo this 14th day of July, 1980


Raymond L. Farley, Mayor

Attest: 
Mildred J. Niles, City Administrator