

CHAPTER 95: ABANDONED AND OTHER NUISANCE VEHICLES

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Cross-reference:

Unclaimed property, see § 33.30 et seq.

§ 95.01 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. A motor vehicle that:

- (1) Has remained illegally for a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted;
- (2) Has remained illegally on private property for more than 24 hours without the consent of the person in control of the property; or
- (3) Lacks vital component parts or is in an 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.

JUNK MOTOR VEHICLE. A vehicle that is apparently inoperable and exhibits one or more of the following conditions:

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

PRIVATE PROPERTY. All property that is not public property as defined in this section.

PUBLIC PROPERTY. Property under the control of any unit of government or agency thereof including that portion of the right-of-way of any street lying between the traveled portion thereof and the adjacent property line.

STREET. Any public street, avenue, highway, alley, or other roadway located within the limits of the city.

VITAL COMPONENT PARTS. Any part of a motor vehicle which is necessary for the legal operation of such motor vehicle upon a street, including but not limited to the motor, drive train, wheels, lights, windshield, and current vehicle license.

('75 Code, § 7.165(2)) (Ord. 1052.84, passed 12-20-84; Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)

§ 95.02 APPLICABILITY OF PROVISIONS.

The provisions of this chapter shall apply to any person or corporation, including those whose principal business is that of selling, trading, or repairing motor vehicles, and where motor vehicles are held, stored, or parked upon the premises in the normal course of his or her business operation.

('75 Code, § 7.165(8)) (Ord. 1052.84, passed 12-20-84; Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)

§ 95.03 NOTICE LETTER.

(A) For abandoned vehicles or junk vehicles on private property with the consent of the property owner, the city shall give notice of the violation to the owner of the property. This notice shall be in the form of a letter either hand delivered or sent

via certified mail. This notice shall state the nature of the violation, the steps needed to remedy the violation, and the date by which the violation must be remedied.

(B) For abandoned vehicles or junk vehicles on public property or on private property without the consent of the property owner, the city may issue a citation as described in § 95.04 without giving notice. This citation shall be issued to the registered owner of the vehicle by mail, or may be attached to the motor vehicle, as described in § 95.04(B).

(Ord. 1138.12, passed 6-25-12)

§ 95.04 CITATION.

(A) Any person, firm, or corporation who does any of the following may be issued a state citation by the Benson Police Department:

(1) Abandons a motor vehicle on any public or private property without consent of the person in control of such property; or

(2) Allows an abandoned motor vehicle or junk motor vehicle to remain on private property for a period of more than 14 days after receiving notice from the city as described in § 95.03.

(B) The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle. The citation must state the date, time and nature of the offense, the name of the peace officer issuing the citation, the amount of the penalty, the manner for paying the penalty, and that the violator has the right to contest the citation. The amount of the penalty for the first citation shall be set by the City Council's uniform fee resolution.

(C) If, after receiving the first citation, the vehicle has not been moved within 14 days, a second citation may be issued, and the city may impound the vehicle pursuant to § 95.08.

(Ord. 1138.12, passed 6-25-12)

§ 95.05 ABANDONED AND/OR JUNK VEHICLES PROHIBITED.

(A) Any person who fails to remove an abandoned motor vehicle or junk motor vehicle within 14 days of receipt of the notice given pursuant to § 95.03 shall be guilty of a petty misdemeanor.

(B) Any person who fails to remove an abandoned motor vehicle or junk motor vehicle within 14 days of receipt of the first citation issued pursuant to § 95.04 shall be guilty of a misdemeanor.

('75 Code, § 7.165(9)) (Ord. 1052.84, passed 12-20-84; Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12) Penalty, see § 10.99

§ 95.06 NUISANCE DECLARED.

(A) Abandoned motor vehicles and junk motor vehicles are hereby declared to be public nuisances because they constitute a hazard to the health and welfare of the people of the city in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, and constitute a blight on the landscape of the city and therefore a detriment to the environment, and may be abated as provided herein or as provided under any other ordinance of the city or the statutes of the state.

(B) Any motor vehicle that is found impeding firefighting, street sweeping, snow removal or plowing, or the orderly flow of traffic is declared to be a public nuisance and may be abated as provided herein or as provided under any other ordinance of the city or the statutes of the state.

('75 Code, § 7.165(1)) (Ord. 1052.84, passed 12-20-84; Am. Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)

Cross-reference:

Nuisances, see Ch. 93

§ 95.07 ABATEMENT.

(A) Any motor vehicle or abandoned motor vehicle which constitutes a public nuisance, as determined by the Zoning Administrator, other duly appointed official of the city, or any police officer of the city, may be removed, impounded, and sold or otherwise disposed of in the manner provided herein.

(B) Any vehicle determined to constitute a public nuisance shall be transported to a facility designated by the city for the storage of such vehicles. Any police officer or other person authorized by the city shall be empowered to enter upon private property for the purpose of removing and transporting such vehicle. Any impounded vehicle shall be tagged for identification which tag shall show the date of and reason for impoundment.

(C) The police officer or other authorized person responsible for the impoundment of a vehicle shall prepare and file in the office of the Police Department a written report which shall contain the make of the vehicle, the name and address of the owner of the vehicle, the license number, the date of license, the motor number, identification of missing vital component parts, a general description of the condition of the vehicle, identification of any personal property located in the vehicle, and such other information as may be necessary to adequately describe the vehicle.

('75 Code, § 7.165(3)) (Ord. 1052.84, passed 12-20-84; Am. Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)

§ 95.08 IMPOUNDMENT NOTICE AND PROCEDURE.

For impounded vehicles, the city shall give notice of the impoundment of said vehicle within ten days thereof to the registered owner and lienholders of record by first class mail sent to the address shown on the vehicle's registration. The notice shall:

- (A) Set forth the date and place of the impoundment and 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 lienholders of their right to reclaim the vehicle under §95.08 of this chapter; and
- (C) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all right, title, and interest in the vehicle and contents and a consent to the sale of the vehicle and contents at a public auction pursuant to § 95.09 of this chapter.

('75 Code, § 7.165(5)) (Ord. 1052.84, passed 12-20-84; Am. Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)

§ 95.09 RECLAMATION; RIGHTS OF LIENHOLDERS PRESERVED.

The owner of any lienholder of a motor vehicle impounded pursuant to this chapter shall have a right to reclaim such vehicle from the city within 15 days after the date of the notice required by § 95.08 of this chapter upon payment of all towing and storage charges resulting from the impoundment of said vehicle. Nothing in this chapter shall be construed to impair any lien of a garage keeper under the laws of this state or the right of a lienholder to foreclose. For the purpose of this section, **GARAGE KEEPER** is an operator of a parking place or establishment, an operator of a storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.

('75 Code, § 7.165(6)) (Ord. 1052.84, passed 12-20-84; Am. Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)

§ 95.10 DISPOSITION OF UNCLAIMED VEHICLES; PROCEEDS OF SALE; TITLE.

(A) A motor vehicle impounded pursuant to this chapter and not reclaimed under §95.08 shall be sold to the highest bidder at a public auction or sale following reasonable published notice thereof. The purchaser shall be given a receipt 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.

(B) From the proceeds of the sale of any vehicle, the city shall reimburse itself for the cost of towing, preserving, and storing the vehicle and all administrative, notice, and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the General Fund of the City Treasury.

('75 Code, § 7.165(7)) (Ord. 1052.84, passed 12-20-84; Am. Ord. 1100.97, eff. 8-20-97; Ord. 1138.12, passed 6-25-12)