

COUNCIL BILL NO. 2003-032

ORDINANCE NO. 2003-161

AN ORDINANCE repealing Division 4., Abandoned Vehicles., of Chapter 114. Traffic, of the Joplin City Code and enacting in lieu thereof, a new Division 4., Abandoned Vehicles.

WHEREAS, the Council of the City of Joplin does hereby find that abandoned motor vehicles are deleterious to the health, safety and welfare of the citizens of the City of Joplin; and,

WHEREAS, the Missouri State Legislature has made various amendments to state law relating to abandoned vehicles over recent years; and,

WHEREAS, §304.156.9, RSMo., permits municipalities to adopt ordinances regulating the removal and sale of abandoned property, provided such ordinances are consistent with §304.155 to §304.158, RSMo.; and,

WHEREAS, it is the desire of the City of Joplin to limit the number of such vehicles in the community; and,

WHEREAS, in order to remove such vehicles, it is necessary to provide procedures therefor.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That Section 114-671, Determination that vehicle is abandoned., be repealed and a new Section 114-671., Abandonment prohibited; removal; presumption of abandonment be enacted in lieu thereof, to read as follows:

"Sec. 114-671. Abandonment prohibited; removal; presumption of abandonment.

(a) No person shall abandon a motor vehicle or other personal property upon the streets or highways of this city.

(b) No person shall place or abandon a vehicle or other personal property upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of such property.

(c) Any police officer or other authorized official who has reasonable grounds to believe that a vehicle or other personal property has been abandoned may remove the vehicle or other personal property, or cause it to be removed, at the expense of the owner, to the nearest garage or any other place designated by the city, and shall immediately send a written report of such removal to the police department, which report shall include a description of the vehicle or other personal property, the date, time and place of removal, the grounds for removal, and the name of the garage or place where the vehicle is located. Upon receipt of a report as provided in this

subsection, the police department shall notify the registered owner of the vehicle, or any lien holder, giving the grounds for removal and the name of the garage or place where the vehicle is located. If the vehicle is not registered in this state, the police department shall make a reasonable effort to notify the registered owner or any lien holder of the removal and the location of the vehicle. The police department shall forward a copy of the notice to the owner or person in charge of the garage or place where the vehicle is located. The police department shall make all reports and inquiries as required by RSMo §304.155 through §304.158.

(d) For purposes of this section, a vehicle or other personal property shall be presumed to be abandoned if it is:

- (1) left unattended on a street or highway for a period in excess of 48 hours; or,
- (2) if it is left unattended on an interstate highway or freeway for a period in excess of ten hours; or,
- (3) is left on any public or private property without express or implied consent of the owner or person in lawful possession or control of such property.

However, within the meaning of this section and that of section 114-672, a vehicle parked on an off-street parking facility, without timely payment of the parking fee posted thereon, shall be deemed *prima facie* to be parked thereon without the express or implied consent of the owner, lessee or person in lawful possession, charge or control of such off-street parking facility.

(e) Any person violating any provision of this section shall, upon conviction, or a plea of guilt, be punished by a fine of not less than \$25.00 and not more than \$500.00."

Section 2. That Section 114-672, Abandonment prohibited., be repealed, and a new Section 114-672, Vehicles and property subject to impoundment, be enacted in lieu thereof, to read as follows:

"Sec. 114-672. Vehicles and property subject to impoundment

(a) Any police officer is hereby authorized to remove a vehicle or other personal property to the nearest garage or other place designated by the city under the circumstances enumerated in this section:

- (1) When any vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is,

by reason of physical injury or condition, incapacitated to such an extent as to be unable to provide for its custody or removal.

(2) When any vehicle or other personal property is parked illegally or placed in such manner as to constitute a hazard or obstruction to the movement of traffic and when a traffic summons has been affixed to the vehicle or presented to the owner or operator.

(3) When a vehicle is parked on the streets in the same place continuously for 48 hours or if it left unattended on an interstate highway or freeway for a period in excess of 10 hours and a summons has been affixed to the vehicle or presented to the owner or operator.

(4) When the driver of any vehicle is taken into custody by the police department and such vehicle would thereby be left unattended upon a street or highway.

(5) When any vehicle is found to be driven or moved on a street or highway which is in such unsafe condition as to endanger any person or property and a summons has been presented to the owner or operator or affixed to the vehicle.

(6) When any vehicle is left unattended for forty-eight (48) hours on private property or upon an area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of any such property or facility, and upon complaint to the police department by the owner, lessee or person in charge or possession of such property or facility, and a summons has been presented to the owner or operator or affixed to the vehicle, and in the judgment of the police officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in charge or possession.

(7) When any vehicle is found, which the police have reasonable grounds to believe has been involved in an accident, and the driver, owner or person in charge thereof has failed to comply with the provisions of sections 114-99, 114-100, and 114-101.

(8) When any vehicle or personal property is directly interfering with the maintenance and care or the emergency use of the streets by any proper department of the city.

(9) When any vehicle is parked on the streets or any public place without valid license plates or with license plates reported stolen and when a traffic summons has been affixed to the vehicle or presented to the owner or operator.

(10) When a stolen motor vehicle or other personal property is found on a public street or private property.

(11) When removal is necessary in the interest of public safety because of fire, flood, storm or other emergency reason.

(12) When any vehicle is parked on the streets or any public place and bears a city license plate or decal which has been reported stolen or which has been issued to a motor vehicle other than that to which it is affixed, or which has been altered or counterfeited, and when a traffic summons has been affixed to the vehicle or presented to the owner or operator.

(b) Any vehicle deemed abandoned, as defined in this division, may be removed by a service station, towing operator, salvage dealer or motor vehicle repair shop to a place of safety upon authorization of a police officer. For purposes of this division only, the terms police officer or law enforcement officer shall include any code enforcement officer appointed as a conservator of the peace pursuant to subsection (c) of this section.

(c) The city manager is hereby authorized to appoint code enforcement officers to act as conservators of the peace. Code enforcement officers so appointed shall have the authority to issue citations and enforce rules, regulations and ordinances pertaining to abandoned vehicles within the corporate limits of the city. Any code enforcement officer appointed under the provisions of this subsection shall have the authority to testify on behalf of the city in any court of competent jurisdiction with regard to any such violation, but shall have no power of arrest nor any other police powers whatsoever not belonging to a private person. The city manager shall have the power to place appropriate restrictions upon such persons with respect to enforcement of this division.

Section 3. That Section 114-673, Removal., be repealed, and a new Section 114-673, Disposition of impounded property; prerequisites for release; collection of costs., be enacted in lieu thereof, to read as follows:

"Sec. 114-673. Disposition of impounded property; prerequisites for release; collection of costs.

(a) Any vehicle or personal property removed or taken into custody under the provisions of section 114-672 shall be held, except as provided in this division, until the owner or his authorized agent applies for such vehicle or personal property and pays the costs of towing and storing such vehicle or personal property. Before releasing any

vehicle on which a traffic ticket has been issued by the police department, a bond shall be posted to ensure an appearance in court on such violation as well as on any other outstanding warrants. In lieu of a bond being posted, the police may accept the driver's license of a state resident, or the police may release the vehicle upon a showing from the court of payment of the fine, penalties, and costs of the offense if court appearance is not mandatory. If the owner or authorized agent posts a bond for an appearance in court or, in lieu of posting a bond, deposits his license, the police department will prepare a statement of towing and storage charges and will forward it to the court. Upon a plea of guilty or a finding of guilty, the court shall order the amount due for towing or storing the vehicle or property to be paid to the tow company or other responsible party. If a finding of not guilty is rendered, such towing and storage charges will not be collected. If no ticket was issued the owner and/or lien holder may request a hearing under RSMo §304.156.5. If the owner does not want to reclaim the vehicle, he/she may transfer title to the vehicle to the tow company. No additional storage charges will be assessed after the title is delivered and the vehicle may be sold in the next available sale. Except, if there is a lien against the vehicle, the vehicle must be held until the lien holder, after receiving notification as required by this article, fails to claim the vehicle or provides a written release of the lien against it.

(b) Calculation of storage charges shall commence immediately after the vehicle or personal property is impounded. No storage charge will be assessed if the vehicle or personal property is released to the owner within the first 24 hours after the property is impounded. The costs and expenses shall be a lien in favor of the tow company or other responsible party on the motor vehicle or personal property as provided by law.

(c) The police department may place a hold on a vehicle that is needed for evidence. Placing a vehicle on hold will prevent the release or sale of the vehicle while the hold is in effect. The police chief and the court administrator, or their designees will establish procedures for placing and removing holds on vehicles."

Section 4. That Section 114-674, Liability for damage to removed vehicles., be readopted to read as follows:

"Sec. 114-674. Liability for damage to removed vehicles.

Neither the city, the chief of police, any law enforcement officer, nor anyone having custody of a vehicle under his direction shall be liable for any damage to a vehicle occasioned by removal authorized by this division, other than damages occasioned by gross negligence or by willful or wanton acts or omissions."

Section 5. That Section 114-675, Redemption or disposition of removed vehicles., be readopted to read as follows:

"Sec. 114-675. Redemption or disposition of removed vehicles.

To provide for a uniform system of redemption by the owner or disposition by the lienholder in possession of any vehicle within this division, the city hereby adopts and incorporates as part of this division, those procedures of RSMo. §304.155 and §304.157, or any amendment thereto, for those motor vehicles removed and stored pursuant to section 114-671(d), dealing with the report, notification and disposition of vehicles within this division."

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 15th day of September, 2003.

Richard H. Russell, Mayor

ATTEST:

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

Brian W. Head, City Attorney