

BILL NUMBER 09-03-01

ORDINANCE NUMBER 169

AN ORDINANCE TO REGULATE JUNK AUTOS WITHIN THE CITY OF LANCASTER, SCHUYLER COUNTY, MISSOURI

AN ORDINANCE OF THE CITY OF LANCASTER, MISSOURI, REGARDING JUNK + Junk AUTOS, AND THE REMOVAL THEREOF.

BE IT ORDERED BY THE BOARD OF ALDERMEN OF THE CITY OF LANCASTER, MISSOURI, AS FOLLOWS:

WHEREAS, except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this ordinance:

SECTION 1: "Person" shall mean any person, firm, partnership, association, corporation, or other organization of any kind.

SECTION 2: "Vehicle" is any machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, including but not limited to automobiles, trucks, trailers, motorcycles, tractors, buggies, and wagons, or any part thereof.

SECTION 3: "Junk" shall mean any metal, glass, paper, rags, wood, machinery parts, cloth or other waste or discarded material of any nature or substance whatsoever, or scrap or salvage materials.

SECTION 4: "Street or highway" shall mean the entire area between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of

vehicular travel.

SECTION 5: "Property" shall mean any land owned by the City or private property but located within the city limits, not including streets and highways.

SECTION 6: "Damaged or disabled vehicle" is any vehicle which is not registered or is improperly registered with the State of Missouri; has been inoperable for more than seventy two (72) hours or is in such a state of repair as to be inoperable, except those on the premises of a duly licensed automobile repair or sales business; or in a duly licensed automobile junk yard.

SECTION 7: DAMAGED OR DISABLED VEHICLES ARE NUISANCES. Any damaged or disabled vehicle, part thereof, or junk, located on any property, street or highway which presents a hazard to children, or harbors tall grass, weeds, or other vegetation, or creates fire hazard, or affords a breeding place or nesting place for mosquitoes, flies, rodents, rats, or other vermin; devalues neighboring property, or any vehicle, part thereof, damaged vehicles abandoned, or junk allowed to remain unmoved on any street or highway for forty eight (48) hours, is a public nuisance.

SECTION 8: UNLAWFUL TO MAINTAIN. It shall be unlawful for any person to create or maintain a nuisance as defined herein.

SECTION 9: NOTICE. Whenever the Chief of Police or his duly authorized representative determines that any vehicle or junk is a nuisance as defined herein, he shall cause written notice to be

served upon the owner of the vehicle or junk if he can be located, or the person in custody of such vehicle or junk, by registered mail or by personal service. The notice shall state that the vehicle or junk is deemed to be a nuisance and shall briefly state facts deemed to constitute such vehicle or junk a nuisance and state that the nuisance shall be abated within seven (7) days from receipt of such notice.

SECTION 10: PROCEEDINGS WHEN OWNER OR CUSTODIAN CANNOT BE LOCATED. When the owner or custodian of said vehicle or junk cannot be located by reasonable search, the notice shall be attached to the property, briefly stating facts deemed to constitute the property a nuisance and stating that the nuisance shall be abated within seven (7) days of the date notice was posted, or if the vehicle is on public property, within two (2) days of the date notice was posted. The City shall comply with Missouri Revised Statutes Sections 304.155 to 304.158 regarding motor vehicles.

SECTION 11: DUTY OF THE OWNER OR CUSTODIAN. Any person receiving the notice provided for above shall comply with the provisions of the notice requiring abatement. Failure to comply with this provision is unlawful. Said owner or custodian may request a hearing within seven (7) days of his/her/its receipt of the notice of nuisance before the City Council.

SECTION 12: DISPOSITION: The City has the option of proceeding to file an ordinance violation with the municipal court or abatement.

If said vehicle is on city property, if not removed within the times specified in this Notice, the vehicle or junk shall be transported to a storage area by or at the direction of the Chief

of Police or his duly authorized representative at the expense of the owner or person in custody thereof. It shall then be stored for a period of at least ninety (90) days, and the person entitled to possession thereof may redeem the property by payment to the City of the actual cost of its removal and a reasonable storage fee. If the vehicle or junk is unredeemed after the expiration of the ninety (90) day period, the Chief of Police may sell it to the highest bidder, or if it has no sale value, may otherwise dispose of it. Any money received from disposal of any vehicle or junk shall be applied to the expenses charged to the owner or person in charge thereof.

SECTION 13: NOTICE OF SALE. Prior to the sale of any such property, the Chief of Police shall cause to be posted in the City Hall, place of storage and at least one (1) other public place in the City, a notice of sale stating:

- a. That the City is selling abandoned property;
- b. The color, make, year, motor number, and serial number, if available, and any other information necessary for an accurate identification of the property;
- c. The terms of the sale; and
- d. The date, time and place of the sale.

This notice shall be published not less than ten (10) nor more than thirty (30) days prior to the date of the sale.

SECTION 14: ENTRY ONTO PRIVATE PROPERTY. The Chief of Police

or his duly authorized representative may enter upon private property for inspection or for the purpose of removing any vehicle or junk in accordance with this Ordinance. If any person refuses to allow entry onto his private property, the Chief of Police may obtain a warrant from the proper official and proceed in accordance therewith.

SECTION 15: ADMINISTRATIVE SEARCH WARRANTS.

- a. An administrative search warrant is a written order of the municipal court commanding the search of property to determine if abandoned or derelict vehicles and/or derelict trailers or wagons are located thereon, related to the compliance of the city's ordinances on nuisances.
- b. An administrative search warrant may be issued for entry upon property where an abandoned or derelict vehicle or a derelict trailer or wagon is located once the Police Chief, or his assigns, declares such vehicle or trailer to be a nuisance.
- c. Any commissioned officer of the City Police Department or the City Attorney may make an application for the issuance of an administrative search warrant, and said application shall:
  1. Be in writing;
  2. State the time and date of the making of the application;
  3. Identify the property which is to be searched in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
  4. Identify the abandoned or derelict vehicle or the derelict trailer or wagon in sufficient detail and particularly that the officer executing the warrant can readily ascertain it;
  5. State with facts sufficient to show reasonable suspicion for the issuance of an administrative search warrant;
  6. Be verified by the oath or affirmation of the applicant;
  7. Be filed in the municipal court;
  8. Be signed by the City Attorney.
- d. The application may be supplemented by a written affidavit verified by oath or affirmation. Such

- affidavit shall be considered in determining whether there is reasonable suspicion for the issuance of an administrative search warrant and in filling out any deficiencies in the description of the property to be searched or of the abandoned or derelict vehicle or derelict trailer or wagon or other such nuisance that is on the property oral testimony shall not be considered.
- e. The municipal judge shall hold a non-adversary hearing to determine whether sufficient facts have been stated as to justify the issuance of an administrative search warrant. If it appears from the application and any supporting affidavit that there is reasonable suspicion to believe that there is an abandoned or derelict vehicle or derelict trailer or wagon on the property described, or other such nuisance, an administrative search warrant shall be issued in the form of an original and two (2) copies.
  - f. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the municipal court.
  - g. The administrative search warrant shall:
    1. Be in writing;
    2. Be directed to a commissioned officer of the City Police Department;
    3. State the time and date the warrant is issued;
    4. Identify the property which is to be searched in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
    5. Identify the abandoned or derelict vehicle or the derelict trailer or wagon or said nuisance in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
    6. Be signed by the municipal judge;
    7. An administrative search warrant issued under this section shall be executed by an officer of the City Police Department and it shall be executed by conducting the search commanded;
    8. An administrative search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten (10) days after the date of the making of the application;
    9. After execution of the administrative search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the municipal judge. The return shall

show the date and manner of execution, the name of the possessor and the name of the owner of the property, when they are not the same person, if known, and the name of the possessor and the name of the owner of the abandoned or derelict vehicle or derelict trailer or wagon, when they are not the same, if known.

- h. An administrative search warrant shall be deemed invalid if:
1. If it was not issued by the municipal judge;
  2. If it was issued without a written application having been filed and verified;
  3. If it was issued without reasonable suspicion;
  4. If it does not describe the property to be searched or the abandoned or derelict vehicle or the derelict trailer or wagon with sufficient certainty;
  5. If it is not signed by the municipal judge who issued it; or
  6. If it is not executed within the time prescribed.

Section 16. Penalty. Any person violating any of the provisions of this ordinance shall be punished by a fine not exceeding <sup>Five</sup>~~Two~~ Hundred Dollars (~~\$200.00~~<sup>500.00</sup>) and costs, or ninety days imprisonment, or both the fine and imprisonment.

THIS ORDINANCE READ TWO (2) TIMES AND ADOPTED ON THIS 12<sup>th</sup> DAY OF MARCH, 2007.

APPROVED:

Linda Bruner  
MAYOR LINDA BRUNER

ATTEST:

Lisa Small  
LISA SMALL, CITY CLERK

