

**CHAPTER 74 – IMPOUNDMENT, REDEMPTION,
STORAGE AND SALE OF ABANDONED,
STOLEN OR LOST PROPERTY AND MOTOR VEHICLES**

74.010. Definitions. For the purposes of this chapter, the following words and terms shall have the meanings given below:

1. Abandoned property. Any unattended motor vehicle, trailer, off-road vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this chapter, whether or not operational.

2. Freeway. A divided state highway with four or more lanes, with no access to the throughways except the established interchanges and with no at-grade crossings.

3. Interstate Highway. A state highway included in the national system of interstate highways located within the boundaries of the city, as officially designated or as may be hereafter designated by the Missouri Highway and Transportation Commission with the approval of the United States, Secretary of Transportation, pursuant to Title 23, United States Code, as amended.

4. Off-road Vehicle. Any vehicle designed for or capable of cross-country travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail, including, without limitation, the following:

- a. jeeps;
- b. all-terrain vehicles;
- c. dune buggies;
- d. multiwheel drive or low-pressure tire vehicles;
- e. vehicle using an endless belt, or tread or treads, or a combination of tread and low pressure tires;
- f. motorcycles, trail bikes, minibikes and related vehicles;
- g. any other means of transportation deriving power from any source and excluding the following:

5. Right-of-way. The entire width of land between the boundary lines of a state highway, city street or alley, including any roadway.

6. Roadway. That improved portion of a state highway, city street or alley used for vehicular travel, exclusive of any berm or shoulder.

7. State Highway. A highway constructed or maintained by the Missouri Highway and Transportation Commission with the aid of state or federal funds, or any highway included by authority of law in the state highway system, including all right-of-way.

8. Towing Company. Any person or entity which tows, removes, or stores abandoned property.

46.020. Authority of Police Department - Towing Abandoned Property on Right-of-Way and Public Lands.

1. Any police officer within the officer's jurisdiction may authorize a towing company to remove to a place of safety:

a. any abandoned property on the right-of-way of:

- (1) Any interstate highway, freeway or other state highway left unattended for more than ten hours.
- (2) Any other public street or alley left unattended for a period of forty-eight hours or more and which has been tagged with an official forty-eight hour notice by the police department when the abandoned property does not display a current vehicle license tag or the abandoned property appears to be inoperable, dismantled or is in such a state of disrepair that it cannot presently be operated lawfully upon the streets, highways, boulevards, or waters of the city; provided that commercial motor vehicles not hauling waste designed as hazardous under 49 U.S.C. 5103 (a) may only be removed under this chapter to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

b. any unattended abandoned property illegally left standing upon any highway, street, alley or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

c. any abandoned property which has been abandoned under Section 577.080, R.S.Mo.;

d. any abandoned property which has been reported as stolen or taken without consent of the owner;

e. any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

f. any abandoned property which due to any other state law or city ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

g. any abandoned property left unattended in violation of a

state law or city ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or

h. any abandoned property illegally left standing on the waters of the city and state as defined in Section 306.010, R.S.Mo., where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or floating loose on the water.

2. Neither the police officer nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this Section other than damages occasioned by negligence or by willful or wanton acts or omissions.

3. The owner of abandoned property removed as provided in this Section shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in subsection seven of this section.

4. Upon the towing of any abandoned property under this Section, the police department shall make an inquiry with the National Crime Information Center and any statewide law enforcement computer system to determine if the abandoned property has been reported stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. The police department shall submit a crime inquiry and inspection report to the Missouri Department of Revenue, on any unclaimed abandoned property, within ten working days of the towing of the abandoned property. The crime inquiry and inspection report shall include the following:

- a. the year, model, make and property identification number of the abandoned property;
- b. a description of any damage to the property noted by the police officer;
- c. the license plate or registration number and the state of issuance, if available;
- d. the storage location of the towed abandoned property;
- e. the name, telephone number and address of the towing company;
- f. the date, place and reason for towing of the abandoned property;
- g. the date of the inquiry of the National Crime Information Center, any statewide law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property has been stolen;
- h. the signature and printed name of the police officer and the towing company; and
- i. any additional information the Missouri Department of Revenue deems appropriate.

5. The police department shall utilize a uniform "Authorization to Tow" form provided by the Missouri Department of Revenue. The completed form shall be issued by the authorizing police officer to the tow company for that company's records as proof of authorization to tow particular abandoned property. One copy of the crime inquiry and inspection report shall remain with the police department. One copy shall be provided to and retained by towing company in an accessible format in its business records for a period of three years from the date of the tow or removal.

6. The owner of towed abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

7. Any towing company who removes abandoned property at the direction of a police officer as provided in this Section shall have lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Such lien shall be enforced in the manner described in section 304.156, R.S.Mo.

8. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain a copy of the police officer's authorization to tow, copies of all correspondence with the Missouri Department of Revenue concerning the abandoned property, and information concerning the final disposition of the possession of the abandoned property.

9. Any personal property within the towed abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping of the abandoned property have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The towing company or police officer holding or storing the property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The towing company holding or storing the personal property shall be strictly liable for the condition and safe return of the property. Stolen, unidentified or impounded personal property, other than abandoned property, which is removed or caused to be removed by the police department shall be stored at the law enforcement center, unless because of its size, nature or condition it should reasonable be stored elsewhere. Such personal property may be subject to the actual cost of removal and administrative and storage fees, provided that the storage fee for such unclaimed personal property shall not be less than one dollar per day of storage.

74.030. Authority of Police Department - - Towing Abandoned Property on Private Lands.

1. If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any police officer within the officers jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

- a. the abandoned property is left unattended for more than forty-eight hours; or
- b. in the judgement 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 possession.

2. Neither the police officer or anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

3. When the owner of real property or a lessee in lawful possession of the real property authorizes a towing company to remove abandoned property without the authorization of a police officer, pursuant to section 304.157, R.S.Mo., and a towing company submits an abandoned property report to the police department, the police department must record the date the abandoned property report was filed with the department and within five days of such filing make an inquiry into the National Crime Information Center and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen. The police department shall meter the information pertaining to the towed abandoned property into the statewide law enforcement computer system.

74.040. Disposition of Towed Abandoned Property.

1. Upon causing the removal of any abandoned property under this Section, if the police department knows the registered owner or lienholder of the abandoned property, it shall within five working days give notice in writing to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and indicate the place to which the property has been removed. If the abandoned property is stored with a tow company, a copy of the notice shall be given to the tow company. The notice provided for in this subsection shall include the amount of mileage, if available, shown on the abandoned property at the time of the removal.

2. A tow company storage facility where abandoned property is stored pursuant to this section shall accept cash or a valid bank credit card for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property, except where the tow and impoundment of the abandoned property was the result of an arrest or

accident whereby the towing company may then demand payment in the form of cash. A tow company who refused to accept a valid bank credit card pursuant to this subsection is liable to the registered owner of the abandoned property for four times the amount of the towing and storage charges, but not to exceed five hundred dollars, as provided by section 304.158.7, R.S.Mo. In addition, persons operating or in charge of a tow company storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

3. Any towing company which comes into possession of abandoned property pursuant to this section and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other state. The towing company shall notify the owner and/or lienholder(s) within 10 business days of the date of mailing indicated on the Missouri Department of Revenue notice to the towing company of the names and addresses of the owner and/or lienholder(s) ascertained. The notice shall contain the following:

- a. the name, address and telephone number of the tow company storage facility;
- b. the date, reason and place from which the abandoned property was removed;
- c. a statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
- d. a statement that the tow company claims a possessory lien for all such charges;
- e. a statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- f. a statement that, should the owner or holder of a valid security interest consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in subsection six of this section to contest the propriety of such towing or removal;
- g. a statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
- h. a statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

e. In the event that the records of the Missouri Department of Revenue fail to disclose the name of the owner or any lienholder of record for the abandoned property, upon notification by the Department of Revenue to the towing company of such failure, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents and that a good faith effort was made. For purposes of this subsection, "good faith effort" means that the following checks have been performed by the tow company to establish the prior state of registration and title:

a. check of the abandoned property for any type of license plated, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

b. check the police report for a license plate number or registration number if the abandoned property was towed at the request of a police officer;

c. check the tow ticket/report of the tow company operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

d. if there is no address of the owner on the impound report, check the police report to see if an out-of-state address is indicated on the drive license information.

If no ownership information is discovered, the Missouri Department of Revenue shall be notified in writing by the tow company. Title may then be obtained in accordance with section 304.156, R.S.Mo., and subsection five of this section.

5. Thirty days after the notification form has been mailed by the towing company to the abandoned property owner and any holder(s) of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or any holder of security agreement has not requested a hearing as provided in subsection six of this section, the lienholder in possession may apply to the Missouri Department of Revenue for a salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report. The application for title shall be accompanied by:

a. an affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property or any holder of a security agreement has not made arrangements for payment of towing and storage charges;

b. an affidavit that the lienholder in possession has not been notified of any application for hearing as provided in subsection six of this section;

c. a copy of the abandoned property report or crime inquiry and inspection report;

d. a copy of the thirty day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indication that the owner and/or lienholder in possession shall comply with subsection four of this section.

6. The owner of abandoned property removed pursuant to the provisions of this section or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection three or this section may file a petition in the Associate division of the Callaway County Circuit Court to determine if the abandoned property was wrongfully taken or withheld from the owner, as provided in section 304.156.5, R.S.Mo.

74.050. Redemption of Abandoned Property. The owner of abandoned property removed as provided in this section shall be responsible for the payment of all reasonable charges for towing and storage of such abandoned property. Upon presentation of a written application, including proof of ownership, and a receipt from the towing company showing all claims satisfied against the abandoned property, the police department shall authorize the release of the abandoned property to the owner, except where the abandoned property is held pursuant to another law.

74.060 Fees related to towing imposed by city.
It is hereby authorized that the city may assess, in addition to any other fees currently authorized to be assessed by the city, a fee of twenty-five dollars (\$25.00) to cover the costs relating to towing of vehicles and processing the release of such vehicles by the police department. Such fee shall be payable by the owner, possessor or lien-holder of the vehicle and shall be paid prior to the release of the towed vehicle.

Exception: The fee of twenty-five dollars (\$25.00) shall be waived in any case where the owner claiming the vehicle had, prior to recovery and towing, reported to the applicable law enforcement agency that the vehicle had been stolen and the vehicle was recovered and towed as a stolen vehicle within the City of Holts Summit. However, the police chief may also waive the fee of twenty-five dollars (\$25.00) if it is apparent that

- (i) the vehicle was stolen by persons unknown to the victim,
- (ii) the victim was not able to report the theft to a law enforcement agency prior to recovery and
- (iii) the victim subsequently filed a complaint with the appropriate law enforcement agency regarding the theft. **ORD #2158 (09-12-11)**