

ORDINANCE NUMBER 24-2

An ordinance to amend Sections 16-621, 16-622, 16-623.1, 16-623.2, 16-623.3, 16-623.4, 16-623.6, 16-624, and 16-626 of the Beatrice City Code regarding abandoned and junked vehicles; to repeal conflicting ordinances or parts of ordinances; and to provide for publication in electronic form and for an effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. That Section 16-621 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-621. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Abandoned vehicle: A vehicle:

- (1) If left unattended, and parked illegally for more than forty-eight (48) hours;
- (2) That qualifies as a junked vehicle as defined in this Code and is left unattended for more than forty-eight (48) hours on public property; or
- (3) If left for more than thirty (30) calendar days in the custody of the police department after the police department has sent a letter to the last-registered owner as required by law.

Inoperable vehicle: A vehicle which:

- (1) Is damaged, defective, dismantled, or otherwise deteriorated to an extent that it is mechanically inoperable and/or incapable of being drawn under its own power; or
- (2) Cannot be legally operated on public streets, highways, or waterways by reason of lacking either equipment or licensure as required by Nebraska Motor Vehicle Code or any other applicable provision, law, rule, or regulation; or
- (3) A vehicle which does not have current license plate(s) and/or in transit decals assigned and affixed thereto shall be presumed to be unlicensed as required by law; provided, that such presumption may be rebutted. This presumption does not apply to vehicles for which registration is not required.

Junked vehicle: Any vehicle that is inoperable as defined in this Code.

Legally operating business: A person, partnership, company, or corporation that offers goods or services in exchange for money that meets the following criteria:

- (1) Maintains regular business hours of at least thirty (30) hours per week;
- (2) Possesses all applicable permits and licenses required for a business of its kind; and
- (3) Operates in a location that is legally zoned for the operation of a business of its kind.

Private property: Any privately owned property which is not included within the definition of public property.

Public property: Any public right-of-way, street, highway, alley, park, or other state, county or municipally owned property.

Responsible party(ies): The last-registered owner of the vehicle, if ascertainable, and the owner of the property upon which the vehicle is located.

Vehicle: A thing used for transporting people or goods which is intended to travel by air, land, or water. Including, but not limited to: cars, trucks, vans, sport utility vehicles, semi-trucks, semi-cabs, semi-trailers, buses, motor homes, ATVs, snowmobiles, four-wheelers, golf carts, motorcycles, dirt bikes, mopeds, airplanes, tractors, riding lawnmowers, trailers, campers, boats, and jet skis."

SECTION 2. That Section 16-622 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-622. Abandonment of vehicles.

It shall be unlawful for any person to abandon any vehicle or cause a vehicle to become an abandoned vehicle. Abandoned vehicles shall be dealt with in accordance with Chapter 16, Article XI, Division 9 of this Code."

SECTION 3. That Section 16-623.1 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-623.1. Warning.

When a vehicle is found in violation of section 16-623, a written notice to remove shall be sent to the responsible party(ies) via first-class mail or personal service. If service by first-class mail or personal service is unsuccessful, then the notice to remove shall be posted in a conspicuous place on the real property where such vehicle(s) is located or published in a local newspaper for three (3) consecutive weeks. The notice to remove shall include:

- (1) A description of the vehicle which constitutes a nuisance pursuant to section 16-623;
- (2) That a thirty (30) calendar period of compliance is afforded to abate the nuisance, as outlined in section 16-623(b); and

- (3) Warning that upon failure to comply, the responsible party(ies) may be issued a criminal citation for the violation of section 16-623 and/or served with a notice of city's intention to remove and abate as provided in section 16-623.2.
- (4) A notice to remove issued pursuant to this section shall be deemed a continuing notice regarding the vehicle(s) described for a period of one (1) year from the date of service and will apply to any location within the City of Beatrice wherein said vehicle(s) is in violation of section 16-623. Within said one-year period, no further notice or opportunity to abate is necessary in order for the city or its designee to take action as described in this section."

SECTION 4. That Section 16-623.2 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-623.2. Notice of city's intention to remove and abate; removal.

- (a) If the responsible party(ies) fail(s) to abate the nuisance within the thirty (30) calendar day period of compliance outlined in the notice to remove, a criminal citation may be issued for violation of section 16-623 and/or a notice of city's intention to remove and abate may be issued.
- (b) When issued, a notice of city's intention to remove and abate shall provide the following information at a minimum:
 - (1) A description of the vehicle which constitutes a nuisance pursuant to section 16-623;
 - (2) That a seven (7) calendar day period of compliance is afforded to abate the nuisance as outlined in section 16-623(b);
 - (3) Failure to properly abate said nuisance shall be sufficient cause for the removal, impoundment, and subsequent disposal of the vehicle by the city or its designee, pursuant to chapter 16, article XI, division 9 of the Beatrice City Code; and
 - (4) The responsible party(ies) will be liable for all costs associated with removal and storage of such vehicle.
- (c) The notice of city's intention to remove and abate shall be served by certified mail or by personal service to the responsible party(ies). If unsuccessful, the city may post notice on and/or near the vehicle(s) in question and, when applicable, by the front entrance to the main building on the property.
- (d) If the violation is not abated within the seven (7) calendar day period of compliance outlined in the notice of city's intention to abate and remove, the city or its designee shall have the right to take possession of said vehicle, remove it from the premises, and place it in storage pursuant to chapter 16, article XI, division 9 of this Code.

- (e) It shall be unlawful for any person, corporation, company, partnership, or association to interfere with, hinder, or refuse to allow the City or its designee to enter upon private property for the purpose of removing or abating a vehicle under the provisions of this Article. For any violation of this subsection, the City may also cause a criminal and/or civil complaint to be filed against such person, corporation, partnership or association committing the unlawful act(s).
- (f) A notice of city's intention to remove and abate issued pursuant to this section shall be deemed a continuing notice regarding the vehicle(s) described for a period of one (1) year from the date of service and will apply to any location within the City of Beatrice wherein said vehicle(s) is in violation of section 16-623. Within said one (1) year period, no further notice or opportunity to abate is necessary in order for the city or its designee to take action as described in this section."

SECTION 5. That Section 16-623.3 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-623.3. Request for appeal hearing.

- (a) Any person to whom a notice of city's intention to remove and abate is directed may file a written request with the city clerk for an appeal hearing before the city administrator within the seven (7) calendar day period of compliance outlined in the notice of city's intention to remove and abate. Requests for appeal hearings shall be accompanied by a filing fee in an amount established by resolution adopted by the city council.
- (b) Requests for an appeal hearing that are not accompanied by the required filing fee or that are received after the expiration of the seven (7) calendar day period of compliance shall be considered invalid.
- (c) Upon receipt of a valid request for an appeal hearing and the filing fee, the seven (7) calendar day period of compliance outlined in the notice of the city's intention to remove and abate shall be tolled. The appeal hearing shall be held within twenty (20) business days of the city's receipt of the request for the appeal hearing."

SECTION 6. That Section 16-623.4 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-623.4. Procedure for hearing.

- (a) The scope of the appeal hearing shall be limited to the following issues:
 - (1) Whether the person requesting the hearing qualifies as a responsible party as defined above; and
 - (2) Whether the vehicle is a junked vehicle or inoperable vehicle as alleged; and

- (3) Whether the responsible party is rightfully exempt.
- (b) At any such hearing, the parties may introduce such witnesses and evidence as each party deems necessary. The city administrator shall then either affirm, reverse, or modify the notice of city's intention to remove and abate. All decisions of the city administrator shall be final, except as subject to court review.
 - (1) If the city administrator affirms the notice of city's intention to remove and abate, the filing fee for the hearing shall be forfeited and the responsible party(ies) will be afforded the remainder of the seven (7) calendar period of compliance that was tolled pursuant to section 16-623.3(c) to abate the nuisance. Should the responsible party(ies) fail to abate the nuisance, the city shall proceed with removal of the junked vehicle(s).
 - (2) If the person requesting the hearing prevails on any of the issues listed in part (a) of this section, then the notice of city's intention to remove and abate shall be reversed and the filing fee paid for the hearing shall be refunded."

SECTION 7. That Section 16-623.6 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-623.6 Release of towed or impounded vehicles.

- (a) A junked vehicle removed by the city will be released to the owner listed on its title after all fees and costs are paid in accordance with the instructions given on the notice of removal.
- (b) The vehicle of an owner who fails to pay the fees and costs will be considered abandoned after thirty (30) calendar days pursuant to section 16-621. Title will then vest in the city and the vehicle may be sold in accordance with Chapter 16, Article XI, Division 9 of this Code.
- (c) A responsible party who failed to request a hearing pursuant to section 16-623.3 contesting the notice of city's intention to remove and abate (or failed to prevail at such hearing) has no further right to appeal and may not contest the city's proper removal of the vehicle(s)."

SECTION 8. That Section 16-624 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-624. Penalty.

Any person violating a provision of this Article shall be guilty of a misdemeanor and, upon conviction thereof, such person shall be fined in a sum not to exceed five hundred dollars (\$500.00), except that each person so convicted shall be fined in a sum not less than two hundred fifty dollars (\$250.00) for the first offense, not less than three hundred seventy-five dollars

(\$375.00) for the second offense, and not less than five hundred dollars (\$500.00) for the third offense and each offense thereafter. Each day that a violation of any of the provisions of this Article continues shall constitute a distinct offense and shall be punishable as such."

SECTION 9. That Section 16-626 of the Beatrice City Code be and is hereby amended to read as follows:

"Sec. 16-626. Exemptions.

- (a) *Business exemption.* A junked vehicle located on the premises of a legally operating business shall be exempt from section 16-623 so long as there is a clear relationship between that vehicle and operation of the business and there is a valid business exemption permit for said vehicle.
 - (1) Applications for a business exemption permit must be submitted to and approved by the Community Development Department.
 - a. Each business exemption permit shall be valid for a period of one (1) year after it is issued and shall not be renewed.
 - b. A junked vehicle remaining on the premises of a legally operating business shall be subject to the provisions of section 16-623 after the expiration of its corresponding business exemption permit.
 - (2) A legally operating business shall be entitled to simultaneous business exemption permits for qualifying junked vehicles, not to exceed ten (10) percent of the total number of registered vehicles owned by the business, or one (1) junked vehicle, whichever is greater.
 - (3) The fee for a business exemption permit shall be established by resolution adopted by the city council.
 - (4) Legally operating businesses whose primary purpose is to sell, scrap, service, repair, restore, offer for rental, tow, or store vehicles are exempt from prosecution under Section 16-623 and are not required to obtain business exemption permits, so long as any such vehicles are stored on the premises of the business.
 - a. Such businesses include car dealerships, auto junk and salvage yards, auto repair and auto body shops, vehicle storage facilities, and vehicle towing companies.
- (b) *Hobbyist permits.* A hobbyist permit for the restoration or repair of up to two (2) junked vehicles may be granted, so long as the junked vehicle(s) to be restored or repaired are owned by the applicant, and the applicant resides at the address where the junked vehicle(s) is/are kept.
 - (1) Applications for each hobbyist permit must be submitted to and approved by the Community Development Department.
 - a. The permit shall cover the junked vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts or junk on or near the vehicle(s).
 - b. The fee for such hobbyist permit shall be established by resolution adopted by the city council.

- c. Each permit is valid for a period of one-hundred eighty (180) calendar days and may be renewed one (1) time upon payment of the fee established by resolution adopted by the city council.
- (c) *Racecar permits.* A racecar permit to allow for exemption from section 16-623 while modifying, servicing, and repairing a vehicle that is built or modified to be raced on a sanctioned race track may be granted, so long as it is apparent that the vehicle is intended for such use.
- (1) A vehicle which possesses obvious traits of a racecar, including, but not limited to, the presence of a roll cage, five-point safety belt, driver's window net, or the absence of all glass shall create a presumption that the vehicle is intended to be raced.
- (2) Applications for a racecar permit must be submitted to and approved by the Beatrice Building Inspections Department.
- a. The permit shall cover the vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts or junk on or near the vehicle(s).
- b. The fee for such racecar permit shall be established by resolution adopted by the city council.
- c. Each racecar permit shall be valid for one (1) year and there is no limit on the number of times the permit may be renewed.
- d. A maximum of two (2) concurrent racecar permits are permitted per property.
- (d) Anyone denied an exemption or permit under this section may file a written request with the city clerk for an appeal hearing before the city administrator within five (5) business days of the denial.
- (1) The appeal hearing shall be held within ten (10) business days of the city's receipt of the request for the appeal hearing.
- (2) The fee to appeal shall be established by resolution adopted by the city council."

SECTION 10. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 11. That this ordinance shall be in full force and effect from and after its passage, approval, and publication in electronic form as provided by law.

PASSED AND APPROVED this 5th day of February, 2024.

Attest:


Erin Saathoff, CMC, City Clerk


Robert Morgan, Mayor





MEMORANDUM

TO: Mayor & City Council

DATE SUBMITTED: December 28, 2023

FROM: Taylor Rivera
City Attorney

FOR AGENDA OF: January 2, 2024

SUBJECT: Amendment – Junked Vehicles

EXHIBIT(S): Redline Ordinance

The proposed amendment is to amend Sections 16-621, 16-622, 16-623.1, 16-623.2, 16-623.3, 16-623.4, 16-623.6, 16-624, and 16-626 of the Junked Vehicle Ordinance. The change to Section 16-621 adds language to clarify that junked vehicles can include jet skis and other watercraft. The proposed amendment also increases the penalties for violations of the ordinance from \$100, for a first offense, \$150, for a second offense, and \$200, for a third offense to \$250, for a first offense, \$375, for a second offense, and \$500 for a third offense. The proposed changes to the remaining sections are minor edits to clean up the language therein.

ARTICLE XVII. ABANDONED AND JUNKED MOTOR VEHICLES¹

Sec. 16-621. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Abandoned vehicle: A vehicle:

- (1) If left unattended, and parked illegally for more than forty-eight (48) hours;
- (2) That qualifies as a junked vehicle as defined in this Code and is left unattended for more than forty-eight (48) hours on public property; or
- (3) If left for more than thirty (30) calendar days in the custody of the police department after the police department has sent a letter to the last-registered owner as required by law.

Inoperable vehicle: A vehicle which:

- (1) Is damaged, defective, dismantled, or otherwise deteriorated to an extent that it is mechanically inoperable and/or incapable of being drawn under its own power; or
- (2) Cannot be legally operated on public streets, ~~or~~ highways, or waterways by reason of lacking either equipment or licensure as required by Nebraska Motor Vehicle Code or any other applicable provision, law, rule, or regulation; or
- (3) A vehicle which does not have current license plate(s) and/or in transit decals assigned and affixed thereto shall be presumed to be unlicensed as required by law; provided, that such presumption may be rebutted. This presumption does not apply to vehicles for which registration is not required.

Junked vehicle: Any vehicle that is inoperable as defined in this Code.

Legally operating business: A person, partnership, company, or corporation that offers goods or services in exchange for money that meets the following criteria:

- (1) Maintains regular business hours of at least thirty (30) hours per week;
- (2) Possesses all applicable permits and licenses required for a business of its kind; and
- (3) Operates in a location that is legally zoned for the operation of a business of its kind.

¹Cross reference(s)—Solid waste, Ch. 22; nuisances and offensive conditions, § 17-181 et seq.

State law reference(s)—Abandoned motor vehicles, R.R.S. 1943, § 60-1901 et seq.

Private property: Any privately owned property which is not included within the definition of public property.

Public property: Any public right-of-way, street, highway, alley, park, or other state, county or municipally owned property.

Responsible party(ies): The last-registered owner of the vehicle, if ascertainable, and the owner of the property upon which the vehicle is located.

Vehicle: A thing used for transporting people or goods which is intended to travel by air, land, or water. Including, but not limited to: cars, trucks, vans, sport utility vehicles, semi-trucks, semi-cabs, semi-trailers, buses, motor homes, ATVs, snowmobiles, four-wheelers, golf carts, motorcycles, dirt bikes, mopeds, airplanes, tractors, riding lawnmowers, trailers, campers, boats, and jet skis.

(Code 1971, § 21-48; Ord. No. 88-14, § 1, 5-2-88; Ord. No. 99-44, § 1, 6-21-99; Ord. No. 18-008, § 1, 5-7-18)

Sec. 16-622. Abandonment of vehicles.

It shall be unlawful for any person to abandon any vehicle or cause a vehicle to become an abandoned vehicle. Abandoned vehicles shall be dealt with in accordance with [Chapter 16](#), [Article XI](#), [Division 9](#) of this Code.

(Code 1971, § 21-49; Ord. No. 88-14, § 2, 5-2-88; Ord. No. 18-008, § 1, 5-7-18)

Editor's note(s)—Ord. No. 18-008, § 1, adopted May 7, 2018, changed the title of § 16-622 from "Abandonment of motor vehicles" to read as herein set out.

Sec. 16-623. Parked, junked, or unregistered vehicles.

- (a) It shall be unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any junked vehicle on private property in an area not fully enclosed, within the city for a period of time in excess of thirty (30) calendar days. Any vehicle allowed to remain on private property in violation of this section shall constitute a nuisance and shall be abated. Each day that a violation of any of the provisions of this section continues shall constitute a distinct offense and shall be punishable as such.
- (b) To comply with this section, the junked vehicle in violation must be:
 - (1) Brought into a condition such that it is no longer a junked vehicle as defined in this Code; or
 - (2) Placed in a proper enclosure pursuant to section 16-625; or
 - (3) Removed from the property and properly disposed of or removed from the city.
- (c) The movement of a junked vehicle from one location to another location where it is still in violation of this Code shall not constitute abatement.

(d) The tarping or placing of a junked vehicle on a trailer shall not constitute abatement.

(Code 1971, § 21-50; Ord. No. 96-43, § 1, 8-5-96; Ord. No. 99-35, § 1, 5-17-99; Ord. No. 02-03, § 1, 1-21-02; Ord. No. 18-008, § 1, 5-7-18)

Editor's note(s)—Ord. No. 18-008, § 1, adopted May 7, 2018, changed the title of § 16-623 from "Parked, junked or unregistered motor vehicles" to read as herein set out.

Sec. 16-623.1. Warning.

When a vehicle is found in violation of section 16-623, a written notice to remove shall be sent to the responsible party(ies) via first-class mail or personal service. If service by first-class mail or personal service is unsuccessful, then ~~tie the~~ notice to remove shall be posted in a conspicuous place on the real property where such vehicle(s) is located or published in a local newspaper for three (3) consecutive weeks. The notice to remove shall include:

- (1) A description of the vehicle which constitutes a nuisance pursuant to section 16-623;
- (2) That a ~~thirty-calendar-day~~thirty (30) calendar period of compliance is afforded to abate the nuisance, as outlined in section 16-623(b); and
- (3) Warning that upon failure to comply, the responsible party(ies) may be issued a criminal citation for the violation of section 16-623 and/or served with a notice of city's intention to remove and abate as provided in section 16-623.2.
- (4) A notice to remove issued pursuant to this section shall be deemed a continuing notice regarding the vehicle(s) described for a period of one (1) year from the date of service and will apply to any location within the City of Beatrice wherein said vehicle(s) is in violation of section 16-623. Within said one-year period, no further notice or opportunity to abate is necessary in order for the city or its designee to take action as described in this section.

(Ord. No. 18-008, § 2, 5-7-18; Ord. No. 22-20 , § 1, 8-1-22)

Sec. 16-623.2. Notice of city's intention to remove and abate; removal.

- (a) If the responsible party(ies) fail(s) to abate the nuisance within the ~~thirty-calendar-day~~thirty (30) calendar day period of compliance outlined in the notice to remove, a criminal citation may be issued for violation of section 16-623 and/or a notice of city's intention to remove and abate may be issued.
- (b) When issued, a notice of city's intention to remove and abate shall provide the following information at a minimum:
 - (1) A description of the vehicle which constitutes a nuisance pursuant to section 16-623;
 - (2) That a ~~seven-calendar-day~~seven (7) calendar day period of compliance is afforded to abate the nuisance as outlined in section 16-623(b);

-
- (3) Failure to properly abate said nuisance shall be sufficient cause for the removal, impoundment, and subsequent disposal of the vehicle by the city or its designee, pursuant to chapter 16, article XI, division 9 of the Beatrice City Code; and
- (4) The responsible party(ies) will be liable for all costs associated with removal and storage of such vehicle.
- (c) The notice of city's intention to remove and abate shall be served by certified mail or by personal service to the responsible party(ies). If unsuccessful, the city may post notice on and/or near the vehicle(s) in question and, when applicable, by the front entrance to the main building on the property.
- (d) If the nuisance-violation is not abated within the seven (7) calendar ~~seven-calendar-day~~ day period of compliance outlined in the notice of city's intention to abate and remove, the city or its designee shall have the right to take possession of said vehicle, remove it from the premises, and place it in storage pursuant to chapter 16, article XI, division 9 of this Code. ~~It shall be unlawful for any person to interfere with, hinder, or refuse to allow the city or its designee to enter upon private property for the purpose of removing a vehicle under the provisions of this article.~~
- (e) It shall be unlawful for any person, corporation, company, partnership, or association to interfere with, hinder, or refuse to allow the City or its designee to enter upon private property for the purpose of removing or abating a vehicle under the provisions of this Article. For any violation of this subsection, the City may also cause a criminal and/or civil complaint to be filed against such person, corporation, partnership or association committing the unlawful act(s).
- (ef) A notice of city's intention to remove and abate issued pursuant to this section shall be deemed a continuing notice regarding the vehicle(s) described for a period of one (1) year from the date of service and will apply to any location within the City of Beatrice wherein said vehicle(s) is in violation of section 16-623. Within said one- (1) year period, no further notice or opportunity to abate is necessary in order for the city or its designee to take action as described in this section.

(Ord. No. 18-008, § 2, 5-7-18; Ord. No. 22-20 , § 2, 8-1-22)

Sec. 16-623.3. Request for appeal hearing.

- (a) Any person to whom a notice of city's intention to remove and abate is directed may file a written request with the city clerk for an appeal hearing before the city administrator within the seven (7) calendar ~~seven-calendar-day~~ day period of compliance outlined in the notice of city's intention to remove and abate. Requests for appeal hearings shall be accompanied by a filing fee in an amount established by resolution adopted by the city council.

-
- (b) Requests for an appeal hearing that are not accompanied by the required filing fee or that are received after the expiration of the seven (7) calendar ~~seven-calendar-day~~ day period of compliance shall be considered invalid.
 - (c) Upon receipt of a valid request for an appeal hearing and the filing fee, the seven (7) calendar ~~seven-calendar-day~~ day period of compliance outlined in the notice of the city's intention to remove and abate shall be tolled. The appeal hearing shall be held within twenty (20) business days of the city's receipt of the request for the appeal hearing.

(Ord. No. 18-008, § 2, 5-7-18)

Sec. 16-623.4. Procedure for hearing.

- (a) The scope of the appeal hearing shall be limited to the following issues:
 - (1) Whether the person requesting the hearing qualifies as a responsible party as defined above; and
 - (2) Whether the vehicle is a junked vehicle or inoperable vehicle as alleged; and
 - (3) Whether the responsible party is rightfully exempt.
- (b) At any such hearing, the parties may introduce such witnesses and evidence as each party deems necessary. The city administrator shall then either affirm, reverse, or modify the notice of city's intention to remove and abate. All decisions of the city administrator shall be final, except as subject to court review.
 - (1) If the city administrator affirms the notice of city's intention to remove and abate, the filing fee for the hearing shall be forfeited and the responsible party(ies) will be afforded the remainder of the seven (7) calendar ~~seven-calendar-day~~ period of compliance that was tolled pursuant to section 16-623.3(c) to abate the nuisance. Should the responsible party(ies) fail to abate the nuisance, the city shall proceed with removal of the junked vehicle(s).
 - (2) If the person requesting the hearing prevails on any of the issues listed in part (a) of this section, then the notice of city's intention to remove and abate shall be reversed and the filing fee paid for the hearing shall be refunded.

(Ord. No. 18-008, § 2, 5-7-18)

Sec. 16-623.5. Notice of removal.

Within five (5) business days of the city's removal of a junked vehicle, the responsible party(ies) shall be sent a notice of removal via first-class mail. The notice of removal shall include:

- (a) A description of the vehicle removed;
- (b) The reason for removal;
- (c) The location, date, and time that the vehicle was removed;

-
- (d) The contact information to obtain release of the vehicle; and
 - (e) Instructions for paying the fees and costs associated with the vehicle's removal.

(Ord. No. 18-008, § 2, 5-7-18)

Sec. 16-623.6 Release of towed or impounded vehicles.

- (a) A junked vehicle removed by the city will be released to the owner listed on its title after all fees and costs are paid in accordance with the instructions given on the notice of removal.
- (b) The vehicle of an owner who fails to pay the fees and costs will be considered abandoned after thirty (30) calendar days pursuant to section 16-621. Title will then vest in the city and the vehicle may be sold in accordance with ~~€~~Chapter 16, ~~æ~~Article XI, ~~d~~Division 9 of this Code.
- (c) A responsible party who failed to request a hearing pursuant to section 16-623.3 contesting the notice of city's intention to remove and abate (or failed to prevail at such hearing) has no further right to appeal and may not contest the city's proper removal of the vehicle(s).

(Ord. No. 18-008, § 2, 5-7-18)

Sec. 16-624. Penalty.

Any person violating a provision of this ~~section~~Article shall be guilty of a misdemeanor and, upon conviction thereof, such person shall be fined in a sum not to exceed five hundred dollars (\$500.00), except that each person so convicted shall be fined in a sum not less than ~~one hundred dollars (\$100.00)~~two hundred fifty dollars (\$250.00) for the first offense, not less than ~~one hundred fifty dollars (\$150.00)~~twothree hundred seventy-five dollars (\$200375.00) for the second offense, and not less than ~~two threefive~~ hundred dollars (\$23500.00) for the third offense and each offense thereafter. Each day that a violation of any of the provisions of this ~~section~~Article continues shall constitute a distinct offense and shall be punishable as such.

(Code 1971, § 21-51; Ord. No. 96-43, § 2, 8-5-96; Ord. No. 18-008, § 3, 5-7-18)

Editor's note(s)—Ord. No. 18-008, § 3, adopted May 7, 2018, changed the title of § 16-624 from "Exception for enclosures and screening" to read as herein set out.

Sec. 16-625. Exception for enclosures and screening.

Section 16-623 shall not be construed to prohibit any person from:

- (a) Storing junked vehicles upon private property when completely enclosed within a building; or
- (b) Storing up to two (2) junked vehicles upon private property when screened from view by a solid fence, privacy fence, or wall.

(Code 1971, § 21-52; Ord. No. 18-008, § 3, 5-7-18)

Editor's note(s)—Ord. No. 18-008, § 3, adopted May 7, 2018, changed the title of § 16-625 from "Exception in business" to read as herein set out.

Sec. 16-626. Exemptions.

- (a) *Business exemption.* A junked vehicle located on the premises of a legally operating business shall be exempt from section 16-623 so long as there is a clear relationship between that vehicle and operation of the business and there is a valid business exemption permit for said vehicle.
 - (1) Applications for a business exemption permit must be submitted to and approved by the ~~Beatrice Building Inspections~~Community Development Department.
 - a. Each business exemption permit shall be valid for a period of one (1) year after it is issued and shall not be renewed.
 - b. A junked vehicle remaining on the premises of a legally operating business shall be subject to the provisions of section 16-623 after the expiration of its corresponding business exemption permit.
 - (2) A legally operating business shall be entitled to simultaneous business exemption permits for qualifying junked vehicles, not to exceed ten (10) percent of the total number of registered vehicles owned by the business, or one (1) junked vehicle, whichever is greater.
 - (3) The fee for a business exemption permit shall be established by resolution adopted by the city council.
 - (4) Legally operating businesses whose primary purpose is to sell, scrap, service, repair, restore, offer for rental, tow, or store vehicles are exempt from prosecution under ~~[section]~~Section 16-623 and are not required to obtain business exemption permits, so long as any such vehicles are stored on the premises of the business.
 - a. Such businesses include car dealerships, auto junk and salvage yards, auto repair and auto body shops, vehicle storage facilities, and vehicle towing companies.
- (b) *Hobbyist permits.* A hobbyist permit for the restoration or repair of up to two (2) junked vehicles may be granted, so long as the junked vehicle(s) to be restored or repaired are owned by the applicant, and the applicant resides at the address where the junked vehicle(s) is/are kept.
 - (1) Applications for each hobbyist permit must be submitted to and approved by the ~~Beatrice Building Inspections~~Community Development Department.

-
- a. The permit shall cover the junked vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts or junk on or near the vehicle(s).
 - b. The fee for such hobbyist permit shall be established by resolution adopted by the city council.
 - c. Each permit is valid for a period of one-hundred eighty (180) calendar days and may be renewed one (1) time upon payment of the fee established by resolution adopted by the city council.
- (c) *Racecar permits.* A racecar permit to allow for exemption from section 16-623 while modifying, servicing, and repairing a vehicle that is built or modified to be raced on a sanctioned race track may be granted, so long as it is apparent that the vehicle is intended for such use.
- (1) A vehicle which possesses obvious traits of a racecar, including, but not limited to, the presence of a roll cage, five-point safety belt, driver's window net, or the absence of all glass shall create a presumption that the vehicle is intended to be raced.
 - (2) Applications for a racecar permit must be submitted to and approved by the Beatrice Building Inspections Department.
 - a. The permit shall cover the vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts or junk on or near the vehicle(s).
 - b. The fee for such racecar permit shall be established by resolution adopted by the city council.
 - c. Each racecar permit shall be valid for one (1) year and there is no limit on the number of times the permit may be renewed.
 - d. A maximum of two (2) concurrent racecar permits are permitted per property.
- (d) Anyone denied an exemption or permit under this section may file a written request with the city clerk for an appeal hearing before the city administrator within five (5) business days of the denial.
- (1) The appeal hearing shall be held within ten (10) business days of the city's receipt of the request for the appeal hearing.
 - (2) The fee to appeal shall be established by resolution adopted by the city council.

(Code 1971, § 21-53; Ord. No. 18-008, § 3, 5-7-18)

Editor's note(s)—Ord. No. 18-008, § 3, adopted May 7, 2018, changed the title of § 16-626 from "Junked motor vehicles on city property" to read as herein set out.

Sec. 16-627. Impoundment.

The chief of police is hereby authorized to remove or have removed any vehicle left on public property within the corporate limits which reasonably appears to be an abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the provisions of this article.

(Code 1971, § 21-54; Ord. No. 88-14, § 3, 5-2-88)

Sec. 16-627.1. Abandoned motor vehicle; value of \$250.00 or less; title vests in city.

If an abandoned vehicle at the time of abandonment has no license plates of the current year affixed or valid In Transit decals issued pursuant to section 60-230 of the Nebraska Revised Statutes affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two hundred fifty dollars (\$250.00) or less, title shall immediately vest in the city.

(Ord. No. 88-14, § 4, 5-2-88; Ord. No. 99-44, § 2, 6-21-99)

Sec. 16-627.2. Police department; duties.

- (a) Except vehicles governed by section 16-627.1, the police department shall make an inquiry as follows, concerning the last registered owner of each abandoned vehicle in its custody:
 - (1) An abandoned vehicle with license plates affixed, to the jurisdiction which issued such number plates; or
 - (2) An abandoned vehicle with no license plates affixed, to the state department of motor vehicles.
- (b) The police department shall notify the last registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either (1) it will be sold or will be offered at public auction after five (5) days from the date such notice was mailed; or (2) title will vest in the city thirty (30) days after the date such notice was mailed. If the agency described in subsection (a) (1) or (2) of this section also notifies the police department that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. Notice required by this subsection shall be either by personal service or by United States registered mail, return receipt required.
- (c) Title to such abandoned vehicle, if unclaimed, shall vest in the city (1) five (5) days after the date the notice is mailed if the vehicle will be sold or will be offered at public auction under subsection (b) of this section; (2) thirty (30) days after the date the notice is mailed if the city will retain the vehicle; or (3) if the last registered owner cannot be ascertained, when notice of such fact is received.

-
- (d) If the police department has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, then the police department shall send a certified letter to each of the last registered owners stating that the vehicle is in the custody of the police department, that the vehicle is no longer needed for law enforcement purposes, and that after thirty (30) days the city will dispose of the vehicle. This subsection shall not apply to motor vehicles subject to forfeiture under section 28-431 of the Nebraska Revised Statutes. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this subsection unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the police department took the vehicle into custody. If a registered owner or person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(Ord. No. 88-14, § 5, 5-2-88; Ord. No. 99-44, § 3, 6-21-99)

Sec. 16-628. Reserved.

Editor's note(s)—Ord. No. 88-14, § 9, adopted May 2, 1988, repealed § 16-628, which pertained to redemption of impounded vehicles and derived from § 21-57 of the city's 1971 Code.

Sec. 16-629. Disposition.

After title to the abandoned vehicle vests pursuant to state law in the city, the city may retain for use, sell, or auction the abandoned vehicle. If the police department has determined that the vehicle should be retained for use, the city shall at the time that the notice, if any, is mailed, publish in a newspaper of general circulation in the city an announcement that the city intends to retain the abandoned vehicle for its use and that title will vest in the city thirty (30) days after the publication. Any proceeds from the sale of the abandoned vehicle, less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner of such vehicle, for a period of two (2) years. If not claimed within such two (2) year period, such proceeds shall be paid into the general fund of the city.

(Code 1971, § 21-58; Ord. No. 88-14, § 6, 5-2-88; Ord. No. 99-44, § 4, 6-21-99)

State law reference(s)—Disposition of proceeds of sale of abandoned vehicle under statutory procedure, R.R.S. 1943, § 60-1905.

Sec. 16-630. Costs of removal and storage.

The last registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle.

(Ord. No. 88-14, § 7, 5-2-88)

Sec. 16-631. Liability for removal.

Neither the owner, lessee, nor occupant of the premises for which any abandoned vehicle shall be removed, nor the State of Nebraska, nor the city shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the city or as a result of any subsequent disposition.

(Ord. No. 88-14, § 8, 5-2-88)

[16-621, 16-622, 16-623.1, 16-623.2, 16-623.3, 16-623.4, 16-623.6, 16-624, and 16-626](#)