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## TITLE IV. NUISANCES

### CHAPTER 401. PUBLIC NUISANCES

#### ARTICLE I. GENERALLY

#### SECTION 4.1 PUBLIC NUISANCE, WHEN.

##### A. Existence; exceptions.

1. Existence. Any condition on any lot or land that has the presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven inches (7") or more in height, rubbish and trash, lumber not piled or stacked seven inches off the ground, abandoned or discarded construction debris, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe, is hereby declared to be a public nuisance.
2. **Exception – Native Plantings.**

Exception is made to the overgrown vegetation and noxious weeds provision listed in Section 4.1(A)(1) for native plantings in accordance with an approved plan. A plan shall be endorsed by a recognized horticultural authority or a licensed landscape architect; and submitted to the Director of Public Works for review and approval. A plan shall comply with the requirements of this section.

Native plant species include but are not limited to those listed on the Native Planting list that is attached to this ordinance and which shall be kept in the Office of City Clerk. The following plants are not excepted by this section: poison ivy (*Rhus radicans*), poison oak (*Toxicodendron diversiloba*), and poison sumac (*Toxicodendron demix*), Johnson grass (*Sorghum halepense*), hemp (*Cannabis sativa*), curled dock (*Rumex crispus*), leafy spurge (*Euphorbia esula*), nettles (*Urtica procera*), bindweed (*Convolvulus arvensis*), multiflora rose (*Rosa multiflora*) except when cultivated for or used as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans* L.), nodding thistle (*Carduus nutans*), Scotch thistle (*Onoprodum acanthium* L.), and purple loosestrife (*Lythrum salicaria*), common teasel (*Dipsacus laciniatus*), cut-leaved teasel (*Dipsacus laciniatus*), kudzu vine (*Pueraria lobata*), spotted knapweed (*Cetaurea stoebe*), crown vetch (*Securigera varia*).

Ragweed may be allowed in a plan-approved native planting area, provided however, that not more than 10% of the canopy of the native planting area can be attributed to ragweed.

For lots that are less than one (1) acre in area, native plantings permitted pursuant to this section's exception shall be located not less than twenty feet (20') from an adjacent property owner(s)' boundaries and not less than twenty feet (20') from any dwelling unit located on the property.

For lots that are one (1) acre or more in area, native plantings permitted pursuant to this section's exception shall occupy no more than twenty (20%) of the lot's area. In addition, native plantings shall be located not less than twenty feet (20') from an adjacent property owner(s)' boundaries and not less than twenty feet (20') from any dwelling unit located on the property.

The City recognizes that the use of wildflowers and other native plants in managed landscapes is economical, reduces maintenance, and effectively conserves water, soil, and other elements of the natural community. Moreover, the preservation, restoration, and management of native plant communities and wildlife habitats may preclude the introduction of toxic pesticides, herbicides, fertilizers, and other pollutants into the environment. The City further acknowledges the need to enjoy and benefit from the variety, beauty, and practical values of natural landscapes, and seeks to guarantee citizens the freedom to employ varying degrees of natural landscaping as viable and desirable alternatives to other conventional modes of landscaping. It is not the intent of this legislation to allow vegetated areas to be unmanaged or overgrown in ways that may adversely affect human health or safety, or pose a threat to authorized agricultural activity.

**3. Exception – Agricultural**

Exception is made to the overgrown vegetation and noxious weeds provisions listed in Section 4.1(A)(1) for any lot that is zoned Agricultural and is actually being used for or agricultural purposes. In such instance, no person having control thereof shall allow or maintain on such lot of parcel any growth of vegetation or noxious weeds to a height of over twelve inches (12") within twenty-five feet (25') of any public or private roadway or street of other public or private improvements consisting of a building, outbuilding, wall, fence or drive or property line. A native planting plan is not required for any lot that is zoned Agricultural and is actually being used for or agricultural purposes.

**4. PRIVATE STRUCTURES PROHIBITED WITHIN THE PUBLIC RIGHT**

**OF WAY-** No structure, other than the facilities of a public utility, postal service, or private mailbox shall be erected within the public right of way, and the same shall be deemed a prohibited public nuisance, subject to abatement or enforcement in the same manner as any other nuisance under this section.

B. Notice. When a public nuisance as described above exists, the building official shall so declare and give written notice to the owner of the property, and if the property is not owner-occupied, also to any occupant of the property by personal service or by first class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same. If notice cannot be given as described in the preceding sentence, then the building official may post such notice on or about the premise described in the notice. Such notice shall, at a minimum:

- 1. declare that a public nuisance exists;**

2. **specifically describe each condition of the lot or land declared to be a public nuisance;**
  3. **identify what action will remedy the public nuisance;**
  4. **order the removal or abatement of the public nuisance within a reasonable amount of time, not less than ten days, unless the public nuisance presents an immediate, specifically identified risk to the public health or safety;**
  5. **describe the location of the property (using the mailing or popular address rather than a legal description when reasonably possible to do so);**
  6. **state that if the owner fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the building official shall cause the condition which constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in the annual real estate tax bill for the property where such ordinance violations existed; and**
  7. **state that if the owner or occupant of the property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited in municipal court for violating this ordinance and shall, upon conviction in municipal court, be subject to punishment pursuant to Section 1.8(F) of the City Code of the City of Lone Jack, Missouri.**
- C. Abatement. If the owner or occupant of such property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the building official shall cause the condition which constitutes the nuisance to be removed. If the building official causes such condition to be removed or abated, the cost of such removal and the proof of notice to the owner of the property shall be certified to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property from the date the tax bill is delinquent until paid.
- D. Penalty. If the owner or occupant of such property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance may be cited in municipal court for violating the ordinance and shall, upon conviction in the municipal court, be subject to punishment pursuant to Section 1.8(F) of the City Code of the City of Lone Jack, Missouri.

## **ARTICLE II. ABANDONED PROPERTY**

### **SECTION 4.2 DEFINITIONS**

As used in this Article, the following terms shall have the meanings set out herein:

*ABANDONED PROPERTY:* Any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this Article, whether or not operational. For any vehicle towed from the scene of an accident at the request of Law Enforcement and not retrieved by the vehicle's owner within five (5) days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a criminal inquiry and inspection report.

*PERSON:* Any natural person, corporation or other legal entity.

*RIGHT-OF-WAY:* The entire width of land between the boundary lines of a public road or State highway, including any roadway.

*ROADWAY:* That portion of a public road or State highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

*TOWING COMPANY:* Any person or entity which tows, removes or stores abandoned property.

*URBANIZED AREA:* An area with a population of fifty thousand (50,000) or more designated by the Bureau of the Census within boundaries to be fixed by the State Highways and Transportation Commission and local officials in cooperation with each other and approved by the Secretary of Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

### **SECTION 4.3 ABANDONED VEHICLES PROHIBITED**

No person shall abandon any motor vehicle on the right-of-way of any public road or State highway or on any private real property owned by another without his/her consent.

### **SECTION 4.4 OPEN STORAGE OF INOPERABLE VEHICLES OR PUBLIC SAFETY HAZARDS PROHIBITED**

The open storage of inoperable vehicles, boats or trailers or other vehicles deemed by the City to constitute a public safety hazard is prohibited. The parking or storage of a vehicle, boat or trailer on private property in any area other than in a parking area contiguous to a driveway and that is improved with an asphalt/concrete surface is prohibited, except that this section shall not apply to any vehicle, boat or trailer in an enclosed building or on any lot or parcel of private property zone agriculture. Also, this section does not apply to businesses licensed as salvage, swap, junk

dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.

#### **SECTION 4.5            OBSTRUCTING THE FLOW OF TRAFFIC PROHIBITED**

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or State highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic.

#### **SECTION 4.6            TOWING OF ABANDONED PROPERTY ON PUBLIC REAL PROPERTY**

A.    *Any Law Enforcement Officer or an official of the City where the City's real property is concerned, may authorize a towing company to remove to a place of safety:*

1.    **Any abandoned property on the right-of-way of:**
  - (a)    Any State highway or interstate highway or freeway in an urbanized area of the City left unattended for ten (10) hours;
  - (b)    Any State highway or interstate highway or freeway outside of an urbanized area of the City left unattended for more than forty-eight (48) hours;

provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this Section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice.

2.    **Any unattended abandoned property illegally left standing upon any highway 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.**
3.    **Any abandoned property which has been abandoned under Section 215.040 herein or Section 577.080, RSMo.**
4.    **Any abandoned property which has been reported as stolen or taken without consent of the owner.**
5.    **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.**

- 6. 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.
  - 7. 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.
- B. *When the City Police Department authorizes a tow pursuant to this Section in which the abandoned property is moved from the immediate vicinity, it shall complete a crime inquiry and inspection report.*
  - C. *Any City agency other than the City Police Department authorizing a tow under this Section where property is towed away from the immediate vicinity shall report the tow to the City Police Department within two (2) hours of the tow, along with a crime inquiry and inspection report.*

**SECTION 4.7 TOWING OF ABANDONED PROPERTY ON PRIVATE REAL PROPERTY**

- A. **Generally.** The City, including the City Police Department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to this Code or are derelict junk, scrapped, disassembled or otherwise harmful to the public health. The City shall perform such tow pursuant to the terms of this Code. When a City agency other than the Police Department authorizes a tow under this Subsection, it shall report the tow to the Police Department within two (2) hours with a crime inquiry and inspection report.
- B. **Towing Authorized By City Police Department.** If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any City Police Officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:
  - 1. **The abandoned property is left unattended for more than forty-eight (48) hours; or**
  - 2. **In the judgment of a Police Officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.**
- C. **Towing Authorized By Real Property Owner, Lessee Or Property Or Security Manager.**
  - 1. **The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a Law Enforcement Officer only when the owner, lessee or**

**property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this Subsection may be made only under any of the following circumstances:**

- (a) *Sign.* There is displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one (1) inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage and containing the telephone number of the local traffic Law Enforcement Agency where information can be obtained or a twenty-four (24) hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property.
- (b) *Unattended on owner-occupied residential property.* The abandoned property is left unattended on owner-occupied residential property with four (4) residential units or less and the owner, lessee or agent of the real property in lawful possession has notified the City Police Department and ten (10) hours have elapsed since that notification.
- (c) *Unattended on other private real property.* The abandoned property is left unattended on private real property and the owner, lessee or agent of the real property in lawful possession of real property has notified the City Police Department and ninety-six (96) hours have elapsed since that notification.

**2. Pursuant to this Section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a City Police Officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to Section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the Missouri Director of Revenue and shall contain the following:**

- (a) The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;
- (b) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;
- (c) The license plate or registration number and the State of issuance, if available;
- (d) The physical location of the property and the reason for requesting the property to be towed;

- (e) The date the report is completed;
  - (f) The printed name, address and telephone number of the owner, lessee or property or security manager in possession of the real property;
  - (g) The towing company's name and address;
  - (h) The signature of the towing operator;
  - (i) The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this Section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;
  - (j) Space for the name of the Law Enforcement Agency notified of the abandoned property and for the signature of the Law Enforcement Official receiving the report; and
  - (k) Any additional information the Missouri Director of Revenue deems appropriate.
- 3. Any towing company which tows abandoned property without authorization from the City Police Department pursuant to Subsection (B) of this Section shall deliver a copy of the abandoned property report to the City Police Department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the City Police Department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two (2) hours if the tow was made from a signed location pursuant to Subsection (C)(1)(a) of this Section, otherwise the report shall be delivered within twenty-four (24) hours.**
- 4. The City Police Department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the Police Department and shall promptly make an inquiry into the National Crime Information Center (NCIC) and any Statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The Police Department shall enter the information pertaining to the towed property into the Statewide law enforcement computer system and a Police Officer shall sign the abandoned property report and provide the towing company with a signed copy.**
- 5. The City Police Department, after receiving notification that abandoned property has been towed by a towing company, shall search the records of the Missouri Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten (10) working days, the towing company shall send a copy of the abandoned property report signed by a Law Enforcement Officer to the Department of Revenue.**

6. No owner, lessee or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this Section.
  7. Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:
    - (a) Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and
    - (b) The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.
- D. **Damage To Property.** The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of or removing, the abandoned property.
- E. **Real Property Owner Liability.** Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this Article.
- F. **Written Authorization Required—Delegation Of Authority To Tow.**
1. Except for the removal of abandoned property authorized by the City Police Department pursuant to this Section, a towing company shall not remove or commence the removal of abandoned property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one (1) year by the towing company.
  2. General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane designated by a Fire Department or the State Fire Marshal.
- G. **Towing Company Liability.** Any towing company or any affiliate of a towing company, which removes or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in Subsection (F) of this Section, is liable to the owner of the property for four (4) times the amount

of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this Section.

#### **SECTION 4.8           GENERAL PROVISIONS AND PROCEDURES**

- A.   **Payment Of Charges.** The owner of abandoned property removed as provided in this Article shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided herein.
  
- B.   **Crime Inquiry And Inspection Report.** Upon the towing of any abandoned property pursuant to this Code or under authority of a Law Enforcement Officer or local governmental agency pursuant to this Code, the City Police Department, where it authorized such towing or was properly notified by another governmental agency of such towing, shall promptly make an inquiry with the National Crime Information Center (NCIC) and any Statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the Statewide law enforcement computer system.

If the abandoned property is not claimed within ten (10) working days of the towing, the City Police Department shall submit a crime inquiry and inspection report to the Missouri Director of Revenue. The City Police Department shall also provide one (1) copy of the report to the storage facility and one (1) copy to the towing company. A towing company in possession of abandoned property after ten (10) working days shall report such fact to the City Police Department. The crime inquiry and inspection report shall be designed by the Director of Revenue and shall include the following:

- 1.   **The year, model, make and property identification number of the property and the owner and any lienholders, if known;**
  
- 2.   **A description of any damage to the property noted by the Law Enforcement Officer authorizing the tow;**
  
- 3.   **The license plate or registration number and the State of issuance, if available;**
  
- 4.   **The storage location of the towed property;**
  
- 5.   **The name, telephone number and address of the towing company;**
  
- 6.   **The date, place and reason for the towing of the abandoned property;**
  
- 7.   **The date of the inquiry of the National Crime Information Center (NCIC), any Statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the City Police Department;**

8. **The signature and printed name of the Law Enforcement Officer authorizing the tow and the towing operator; and**
  9. **Any additional information the Missouri Director of Revenue deems appropriate.**
- C. **Reclaiming Property.** The owner of such 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.
- D. **Lienholder Repossession.** If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the City Police Department within two (2) hours of the repossession and shall further provide the Police Department with any additional information the Police Department deems appropriate. The City Police Department shall make an inquiry with the National Crime Information Center (NCIC) and the Missouri Statewide law enforcement computer system and shall enter the repossessed vehicle into the Statewide law enforcement computer system.
- E. **Notice To Owner/Tow Lien Claim.** Any towing company which comes into possession of abandoned property pursuant to this Article 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 any lienholder within ten (10) business days of the date of mailing indicated on the notice sent by the Missouri Department of Revenue pursuant to Section 304.156, RSMo., by certified mail, return receipt requested. The notice shall contain the following:
1. **The name, address and telephone number of the storage facility;**
  2. **The date, reason and place from which the abandoned property was removed;**
  3. **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;**
  4. **A statement that the storage firm claims a possessory lien for all such charges;**
  5. **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;**

6. A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this Section to contest the propriety of such towing or removal;
7. A statement that if the abandoned property remains unclaimed for thirty (30) 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
8. 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.

F. **Physical Search Of Property.** In the event that the Missouri Department of Revenue notifies the towing company that the records of the Department of Revenue fail to disclose the name of the owner or any lienholder of record, 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 were found and a good faith effort has been made. For purposes of this Section, "*good faith effort*" means that the following checks have been performed by the company to establish the prior State of registration and title:

1. Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a State of possible registration and title;
2. Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a Law Enforcement Agency;
3. Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
4. If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

G. **Petition In Circuit Court.** The owner of the abandoned property removed pursuant to this Article or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to Subsection (E) of this Section may file a petition in the Associate Circuit Court in the County where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The

Missouri Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the Director of Revenue.

H. **Notice To Owner.** Notice as to the removal of any abandoned property pursuant to this Article shall be made in writing within five (5) working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal and the place to which the property has been removed by either:

1. **The public agency authorizing the removal; or**
2. **The towing company, where authorization was made by an owner or lessee of real property.**

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this Section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

I. **Tow Truck Requirements.** Any towing company which tows abandoned property for hire shall have the towing company's name, City and State clearly printed in letters at least three (3) inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

J. **Storage Facilities.** Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this Article shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.

#### **SECTION 4.9 MAXIMUM CHARGES**

A. A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of this Article.

B. The Board of Aldermen may from time to time establish maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the City and which are consistent with this Article and with Sections 304.155 to 304.158, RSMo. Any violation of said established maximum charges shall be deemed a violation of this Section of the Code.

C. A towing company may impose a charge of not more than one-half (1/2) of the regular towing charge for the towing of abandoned property at the request of the

owner of private real property or that owner's agent pursuant to this Article if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private real property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

## **SECTION 4.10 SALE OF ABANDONED PROPERTY BY CITY**

When the City has physical possession of the abandoned property, it may sell the abandoned property in accordance with its established provisions and regulations and may transfer ownership by means of a bill of sale signed by the City Clerk and sealed with the official City Seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of Section 301.218, RSMo. or Section 301.560, RSMo. or for any other person.

## **CHAPTER 402. NOISE**

### **A. *Findings; general policy.***

#### **1. The Board of Aldermen finds that**

- (a) Excessive sound is a serious hazard to the public health, welfare and safety and the quality of life;
- (b) A substantial body of science and technology exists by which excessive sound may be substantially abated; and
- (c) The citizens of the City have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, safety or welfare or otherwise degrade the quality of life.

#### **2. It is the policy of the City to prevent excessive sound which may jeopardize the health, welfare or safety of its citizens or degrade the quality of life.**

### **B. *Definitions.***

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this Chapter, not defined in this section, shall be in conformance with applicable publications of the American National Standards Institute or its successor body.

*A-Weighted Sound Level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dba.

*Decibel (dB)* means a unit for measuring the volume of a sound, equal to 20 times (the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Emergency Work* means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

*Equivalent A-Weighted Sound Level ( $L_{eq}$ )* means the constant sound level that in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. For the purposes of this Chapter, a time period of not less than ten continuous minutes or two minutes, whether continuous or not, of a 30-minute period shall be used.

*Loud or raucous noise* means any noise or sound that emanates in such manners and/or volume and is of such intensity, character and duration to be offensive or disturbing to a person of ordinary sensibilities.

*Noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Real Property Boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

### C. ***Prohibited Acts.***

Except as authorized by special permit, no person shall produce, nor shall any person allow to be produced on private property any source of sound such that it:

- 1. It is an unreasonably loud and/or raucous noise in such a manner or at such a volume as to disturb the quiet, comfort, or repose of a person of ordinary sensibilities, for which strict liability is intended to be imposed, or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which the noise is generated and who are voluntary listeners, or is plainly audible across a residential real property boundary fifty (50) feet or more from the source of the noise; or**
- 2. Exceeds an equivalent A-weighted sound level for the following standards established for the land use designations at or within the real property boundary of the receiving land use:**

Receiving Property Land Use	Time	Sound level standards
Residential	7:00 a.m. – 10:00 p.m. daily	60 dBA
	At all other times	55 dBA
Commercial	At all times	65 dBA
Industrial	At all times	70 dBA

**D. *Exceptions.***

That the noise standards set forth in this Chapter shall not apply to:

- 1. Noise produced for the purpose of alerting persons to the existence of an emergency.**
- 2. Noise produced in the performance of emergency work.**
- 3. Noise produced in the performance of construction, alteration or repair activities conducted by political subdivisions or their agents, or in the performance of construction, alteration or repair activities which are authorized by a valid City permit, subject to the following limitation: This exemption shall only apply to noise produced in the performance of construction, alteration or repair activities carried out between the hours of 7:00 a.m. and 9:00 p.m. daily.**
- 4. Noise that is the result of any act of God, war, labor disturbance, riot, catastrophe or other cause beyond the control of the person responsible for the machine or device that is producing the noise.**
- 5. Agricultural activities.**
- 6. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.**
- 7. Civil War historical re-enactment ceremonies sponsored by the Lone Jack Park and History Board that are conducted between the hours of 7:00 a.m. and 9:00 p.m.**
- 8. Public works projects as authorized by the State and/or other political subdivisions.**
- 9. The emission of sound from property zoned residential that is periodically generated by activities required to maintain the property in compliance with housing, building, zoning, fire, safety, health or sanitation codes and which occurs between the hours of 7:00 a.m. to 9:00 p.m.**

**E. *Special Permit.***

The Mayor shall have the authority, consistent with this Chapter, to grant special permits, which may be requested by any person proposing to engage in any activity that the

applicant believes will violate the provisions of this ordinance, pursuant to the following requirements:

1. **Application; hearing.** Any person seeking a special permit under this ordinance shall file a written request with the Mayor. The written request shall contain information that demonstrates that compliance with this Chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Any individual who claims to be adversely affected by allowance of the special permit may file a statement with the Mayor containing any information to support his or her claim. If the Mayor finds that a sufficient controversy exists regarding an application, a public hearing may be held.
2. **Grant or denial of special permit.** In determining whether to grant or deny the request, the Mayor shall balance the hardship to the applicant, the community and other persons of not granting the special permit against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special permit. Applicants for special permits and persons contesting special permits may be required to submit any information the Mayor may reasonably require. In granting or denying the request, the Mayor shall place on public file a copy of the decision and the reasons for denying or granting the special permit.
3. **Conditions.** A special permit shall be granted by notice to the applicant containing all necessary conditions on the permitted activity. The special permit shall not become effective until the applicant agrees to all conditions. Noncompliance with any condition of the special permit shall terminate it and subject the person holding the special permit to those provisions of this ordinance regulating noise for which the special permit was granted.
4. **Procedural rules.** The Mayor may issue rules and regulations defining the procedures to be followed in applying for a special permit and the criteria to be considered in deciding whether to grant a special permit.
5. **Appeals.** Appeals of an adverse decision of the Mayor under this section shall be made to the Board of Aldermen within fifteen (15) days after the date the decision was placed on public file by filing a written notice of appeal with the City Clerk.

F. ***Aviation.***

Nothing in this Chapter shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects, conducted in accordance with, or pursuant to, applicable federal laws or regulations.

G. ***Abatement order.***

1. **Except as provided in subsection B of this Section, the Mayor may issue an order requiring abatement of any source of sound if he has reason to believe that it is in violation of this Chapter, within a reasonable time period and according to rules and regulations which the Mayor may prescribe.**

2. An abatement order shall not be issued when the Mayor has reason to believe that there will not be compliance with the abatement order.

**SECTION 4.11      RESERVED.**

**SECTION 4.12      RESERVED.**

**SECTION 4.13      RESERVED.**

**SECTION 4.14      RESERVED.**

**SECTION 4.15      RESERVED.**