

**ORDINANCE NO. 116  
ABANDONED PROPERTY**

AN ORDINANCE REGARDING ABANDONED PROPERTY IN THE CITY OF NEW YORK MILLS

The City Council of the City of New York Mills do ordain as follows:

Section

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**GENERAL PROVISIONS**

**116.01 DISPOSITION OF ABANDONED PROPERTY.**

- (A) *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of Ordinance 116.
- (B) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.
- (C) *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.
- (D) *Sale.* If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction which may include sale by sealed bids conducted by the City Clerk, Chief of Police or his or her designee after two weeks published notice setting forth the time and place of the sale and the property to be sold.
- (E) *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

## ABANDONED VEHICLES

### 116.15 FINDINGS AND PURPOSE.

M.S. ch.168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 116.15 through 116.25 of this code are adopted under the authority of M.S. 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

### 116.16 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***ABANDONED VEHICLE.***

(1) A motor vehicle, as defined in M.S. 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or
2. On private property for a period of time, as determined under 107.18(B), without the consent of the person in control of the property; and
  - (a) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
  - (b) Does not possess or display current registration or license.
3. A classic car or pioneer car, as defined in M.S. 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.
4. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
5. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

**DEPARTMENT.** The Minnesota Department of Public Safety.

**IMPOUND.** To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

**IMPOUND LOT OPERATOR** or **OPERATOR.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **OPERATOR** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

**JUNK VEHICLE.** A vehicle that:

- (1) Is three years old or older;
- (2) Is extensively damaged, with the damage including things such as broken or missing wheels, motor, drive train or transmission.
- (3) Is apparently inoperable;
- (4) Does not have a valid, current registration plate; and
- (5) Has an approximate fair market value equal only to the approximate value of the scrap in it.

**MOTOR VEHICLE or VEHICLE.** Has the meaning given “motor vehicle” in M.S. 169.01, as it may be amended from time to time.

**MOTOR VEHICLE WASTE.** Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

**MPCA or AGENCY.** The Minnesota Pollution Control Agency.

**NONPUBLIC IMPOUND LOT.** An impound lot that is not a public impound lot.

**PUBLIC IMPOUND LOT.** An impound lot owned by or contracting with a unit of government under 116.24.

**UNAUTHORIZED VEHICLE.** A vehicle that is subject to removal and impoundment pursuant to 116.18(B) or M.S.169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

**UNIT OF GOVERNMENT.** Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

**VITAL COMPONENT PARTS.** Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

#### **116.17 VIOLATION TO ABANDON MOTOR VEHICLE.**

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.

#### **116.18 AUTHORITY TO IMPOUND VEHICLES.**

- (A) *Abandoned or junk vehicles.* The City Clerk, Chief of Police, or their designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle.
- (B) *Unauthorized vehicles.* The City Clerk, Chief of Police, or their designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

- (1) In a public location not governed by M.S. 169.041 as it may be amended from time to time:
  - (a) On a highway and properly tagged by a peace officer, four hours;
  - (b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
  - (c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or
- (2) on private property:
  - (a) That is single-family or duplex residential property, immediately;
  - (b) That is private, nonresidential property, properly posted, immediately;
  - (c) That is private, nonresidential property, not posted, 24 hours; or
  - (d) That is any residential property, properly posted, immediately.

(C) The number of vehicles parked in the yard, on the driveway or on the street or street right of way at any residence shall not exceed the number of licensed drivers who permanently reside at that residence. Excluded are any vehicles stored inside a garage, shed, or other permanent structure. This section also excludes the vehicles of any guests who may be temporarily staying at the residence for a period of no more than 72 hours. Should any guest keep his/her vehicle at the residence, not in an enclosed permanent structure for more than 72 hours, he/she would then be in violation of this section.

- (1) If a resident is in violation of this section, the City shall notify the resident by letter informing him/her of the violation and allowing the resident two weeks (14 days) to come into compliance with this section.
- (2) If the resident is still not in compliance after the two-week period, the City may tow away and impound as many vehicles as necessary until the property meets the specifications set forth by this section.

#### **116.19 SALE; WAITING PERIODS.**

- (A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under 116.23, 15 days after notice to the owner, if the vehicle is determined to be;
  - (1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
  - (2) An abandoned vehicle.
- (B) *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under 116.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

#### **116.20 NOTICE OF TAKING AND SALE.**

- (A) *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:
  - (1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
  - (2) Inform the owner and any lienholders of their right to reclaim the vehicle under 116.21; and
  - (3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under 116.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to 116.23

- (B) *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, if an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.
- (C) *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

#### **116.21 RIGHT TO RECLAIM.**

- (A) *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under 116.19, after the date of the notice required by 116.20.
- (B) *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purpose of this section, **GARAGEKEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicle.

#### **116.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.**

- (A) *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:
  - (1) 25 days storage for a vehicle described in 116.19(A); and
  - (2) 55 days storage for a vehicle described in 116.19(B).
- (B) *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under 116.19 is deemed to waive any right to reclaim the vehicle and contents to the disposal or sale of the vehicle and its contents and transfer of title.

#### **116.23 DISPOSITION BY IMPOUND LOT.**

- (A) *Auction or sale.*
  - (1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under 116.21, it may be disposed of or sold at auction or sale when eligible pursuant to 116.20 and 116.21.
  - (2) The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles, which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.
- (B) *Unsold vehicle.* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with 116.24.

- (C) *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.
- (D) *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

#### **116.24 DISPOSAL AUTHORITY.**

- (A) The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

#### **116.25 CONTRACTS; REIMBURSEMENT BY MPCA**

- (A) *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to 116.24, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under 116.23. Except as otherwise provided in 116.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.
- (B) *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under 116.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under 116.23.
- (C) *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of the City of New York Mills this 19<sup>th</sup> day of July 2006.

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Randy Clarksean, Mayor

ATTEST:

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Jodi Ericksrud, City Clerk