

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE VILLAGE OF INDIAN POINT, MISSOURI, AMENDING CHAPTER 217, ABANDONED PROPERTY OF THE CODE OF THE VILLAGE OF INDIAN POINT, MISSOURI, FOR THE PURPOSE OF UPDATING THE ABANDONED PROPERTY CODE.

WHEREAS, the Board of Trustees of the Village of Indian Point, Missouri (“Village”) desires to update its current Abandoned Property Code by amending Chapter 217 Abandoned Property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF INDIAN POINT, MISSOURI, AS FOLLOWS:

SECTION 1: That Section 217.010. Definitions, is hereby amended in part and shall hereafter read as follows:

Section 217.010. Definitions.

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

ABANDONED

Left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets, alleys or public lots of the Village of Indian Point, Missouri.

CHIEF OF POLICE

Includes any authorized Law Enforcement Officer of the Village.

ENCLOSED AREA

Any area which is inaccessible to the public view.

MOTOR VEHICLE

A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy, and wagon, or any part or portion

thereof.

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.

STREET OR HIGHWAY

The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

TOWING COMPANY

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

VEHICLE OWNER

Any individual, firm, corporation, or unincorporated association with a claim either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.

SECTION 2: That Section 217.020. Abandoning Motor Vehicle – Last Owner of Record Deemed the Owner of Abandoned Motor Vehicle, Procedures – Penalty – Civil Liability, is hereby amended in part and shall hereafter read as follows:

Section 217.020. Abandoned Motor Vehicle – Last Owner of Record Deemed the Owner of Abandoned Motor Vehicle, Procedures – Penalty – Civil Liability.

A person commits the offense of abandoning a motor vehicle, vessel, or trailer if he/she:

Abandons any motor vehicle, vessel, or trailer on the right-of-way of any public road or State highway; or

Abandons any motor vehicle, vessel, or trailer on or in any of the waters in this State or in the banks of any stream; or

Abandons any motor vehicle, vessel or trailer on any land or water owned, operated, or leased by the State, any board, department, agency, or commission thereof, or any political subdivision thereof or on any land or water owned, operated or leased by the Federal Government; or

Abandons any motor vehicle, vessel or trailer on any private real property owned by another without his/her consent; or

Abandons any motor vehicle, vessel or trailer on his/her personal property which remains on the streets or other public property for more than forty-eight (48) hours, the owner of which cannot be located, or if located, owner refuses to remove the same immediately.

For purposes of this Section, the last owner of record of a motor vehicle, vessel or trailer found abandoned and not shown to be transferred pursuant to Sections 301.196 and 301.197, RSMo., shall be deemed prima facie to have been the owner of such motor vehicle, vessel or trailer at the time it was abandoned and to have been the person who abandoned the motor vehicle, vessel or trailer or caused or procured its abandonment. The registered owner of the abandoned motor vehicle, vessel or trailer shall not be subject to the penalties provided by this Section if the motor vehicle, vessel, or trailer was in the care, custody, or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address and other pertinent information of the person who leased, rented, or otherwise had care, custody or control of the motor vehicle, vessel, or trailer at the time of the alleged violation. The affidavit submitted pursuant to this Subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle, vessel, or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle, vessel, or trailer is alleged to have been stolen, the owner of the motor vehicle, vessel or trailer shall submit proof that a police report was filed in a timely manner indicating that the vehicle or vessel was

stolen at the time of the alleged violation.

Any person convicted pursuant to this Section shall be civilly liable for all reasonable towing, storage and administrative costs associated with the abandonment of the motor vehicle, vessel, or trailer. Any reasonable towing, storage and administrative costs in excess of the value of the abandoned motor vehicle, vessel or trailer that exist at the time the motor vehicle or vessel is transferred pursuant to Section 304.156, RSMo., shall remain the liability of the person convicted pursuant to this Section so long as the towing company, as defined in Chapter 304, RSMo., provided the title owner and lienholders, as ascertained by the Department of Revenue records, a notice within the time frame and in the form as described in Subsection (1) of Section 304.156, RSMo.

SECTION 3: That Section 217.050. General Provisions and Procedures, is hereby amended in part and shall hereafter read as follows:

Section 217.050. General Provisions and Procedures.

Payment Of Charges. The owner of abandoned property removed as provided in this Chapter shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in Section 385.050.

Crime Inquiry And Inspection Report. As to crime inquiry and inspection reports required by State law, see Chapter 385 of this Code, Section 385.040.

Reclaiming Property. The owner of such abandoned motor vehicles, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or interest in the vehicle, satisfactory to the Chief of Police, that the ownership interest is rightful, and/or the individual has a valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property. The Chief of Police shall execute a receipt for the owner and cause the vehicle to be returned to them.

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 Village within two (2) hours of the repossession and shall further provide the Village with any additional information the Village deems appropriate. The Village shall make an inquiry with the National Crime Information Center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

Notice To Owner/Tow Lien Claim. Any towing company which comes into possession of abandoned property pursuant to this Chapter 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:

The name, address, and telephone number of the storage facility;

The date, reason, and place from which the abandoned property was removed;

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;

A statement that the storage firm claims a possessory lien for all such charges;

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;

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;

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

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.

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:
Check 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;

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;

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
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.

Petition In Circuit Court. The owner of the abandoned property removed pursuant to this Chapter 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.

Notice To Owner.

Notice as to the removal of any abandoned property pursuant to this Chapter 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:

The public agency authorizing the removal; or

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.

If the owner cannot be identified, or no claim is made by a notified owner within the time specified in this Chapter, the Chief of Police shall cause to be published

in a newspaper of general circulation within the County a notice of sale. The notice of sale shall be published two (2) times, the first (1st) publication shall be made not less than fifteen (15) days prior to the date of the proposed sale, and the second (2nd) shall be made not more than seven (7) days prior to the date of the proposed sale. The notice of sale shall state:

The sale is of abandoned property in possession of the Village.

A description of the vehicle, including the type, make, motor number, serial number, and any other information which will aid in accurately identifying the vehicle.

The terms of the sale, and

The date, time, and place of the sale.

Tow Truck Requirements. Any towing company which tows abandoned property for hire shall have the towing company's name, Village 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 towing.

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

Disposition Of Towed Property. Notwithstanding the provisions of Section 301.227, RSMo., any towing company who has complied with the notification provisions in Section 304.156, RSMo., including notice that any property remaining unredeemed after thirty (30) days may be sold as scrap property, may then dispose of such property as provided in this Subsection. Such sale shall only occur if at least thirty (30) days have passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in Section 304.156, RSMo. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the Director of Revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the Director of Revenue within two (2) weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three (3) years that shall be available for inspection by law enforcement and authorized Department of Revenue officials. The record shall contain the year, make, identification number of the property,

date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this Chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in Section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in Section 301.227, RSMo., on vehicles purchased on a bill of sale pursuant to the Section.

SECTION 4: This Ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 5: The provisions of this Ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this Ordinance.

SECTION 6: That the Village Clerk is authorized by this Ordinance to correct any scrivener's errors identified within this Ordinance.

SECTION 7: That all other parts and provisions of the Code not in conflict herewith shall remain in full force and effect unless previously or subsequently amended or repealed.

PASSED AND APPROVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF INDIAN POINT THIS 8th DAY OF May 2024 ON FIRST AND SECOND READING.

| FIRST READING | YEA | NAY |
|-----------------|----------|-----|
| Denise Petersen | <u>X</u> | ___ |
| Barbara Manisco | <u>X</u> | ___ |
| Zach Hamilton | <u>X</u> | ___ |
| Ron Coomes | <u>X</u> | ___ |
| Chris Houghton | <u>X</u> | ___ |

| SECOND READING | YEA | NAY |
|-----------------|----------|-----|
| Denise Petersen | <u>X</u> | ___ |
| Barbara Manisco | <u>X</u> | ___ |
| Zach Hamilton | <u>X</u> | ___ |
| Ron Coomes | <u>X</u> | ___ |
| Chris Houghton | <u>X</u> | ___ |

Attest: _____
Beth Frazier
Village Clerk

Denise Petersen
Chair, Board of Trustees