

Chapter 215

NUISANCES

Cross References — As to dangerous buildings as a nuisance, ch. 505.

ARTICLE I General Provisions

Section 215.010. Definitions. [Ord. No. 1042 §1, 6-10-2004]

The following words, terms and phrases, when used in this Chapter, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

ENCLOSED STRUCTURE — An enclosed structure built according to City Code (i.e., garage or shed) in which the contents are not visible to neighbors, passers-by, those on public sidewalks, streets or alleyways or from any adjacent public or private property.

GARBAGE — Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food. See also "*SOLID WASTE*".

HABITABILITY — Capable of being lived-in; suitable for habitation.

JUNK — Old, dilapidated, abandoned or scrap rubber, appliances, beds, debris, dismantled or wrecked vehicles, furniture, glass, metal, paper, plastic, waste or parts thereof.

OCCUPANT — Any person who has a legal or equitable interest in a parcel of real property, other than a fee interest, including a life tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property as the agent or personal representative of the person holding legal title of a fee interest. Possession, charge, care or control may include living, sleeping, cooking or eating in the parcel of real property.

OWNER — Any person who, along or jointly or severally with others:

1. Has legal title to any parcel of real property, building or structure or part thereof, with or without accompanying actual possession thereof; or
2. Has charge, care or control of any parcel of real property, building or structure or part thereof, as agent or personal representative of the person having legal title to the building or structure or part thereof; or
3. Has possession or right to possession under a contract for deed; or
4. Has legal title to a vehicle.

PERSON — Any agent, private corporation, firm, partnership, association, administrator and any executor, receiver, representative or trustee appointed according to law.

PROHIBITED VEHICLE — Any vehicle described as an abandoned vehicle, elevated vehicle, junk vehicle or unlicensed vehicle.

RANK GROWTH OF VEGETATION — Thickets or any vegetation which may emit noxious odors or any vegetation which is seven (7) inches or more in height. Rank growth of vegetation shall not include trees in excess of six (6) feet in height, cultivated or attended trees less than six (6) feet in height or cultivated or attended plants, bushes or shrubbery.

REASONABLE RESIDENTIAL STORAGE — The open, outdoor storage of usable building materials in small amounts will not be considered a nuisance if the open storage is temporary (temporary being not beyond thirty (30) days after the building/construction permit expires) and the building materials are to be used for the benefit of the property on which they are located.

SOLID WASTE — Solid and semi-solid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities including, but not limited to, animal wastes, appliances, ashes, construction and demolition wastes, garbage, major appliances, refuse, rubbish, street refuse, trash and yard wastes, but not hazardous waste or waste material resulting from mining, milling or smelting.

TARPAULIN — A piece of opaque material (durable plastic) used for protecting exposed objects or areas, which must be in good repair (no holes or rips), of adequate size (in relationship to what is tarped) and secured.

TRAFFIC HAZARD — Any vegetation, plant, bush, shrubbery, tree or any part thereof growing upon any private or public property so as to obstruct reasonable and safe view of oncoming and intersecting traffic by motor vehicle drivers on any street, alley or public drive.

UNSAFE — A state or condition of danger, harm or risk; unsecured from threat of danger, harm or loss.

UNSANITARY — A state or condition that endangers personal or public health.

WASTE TIRE — A tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

WEEDS — Grasses and unattended growths of other plants, bushes and shrubbery which are seven (7) inches or more in height.

WOODLAND — A large, dense growth of trees, plants and underbrush.

YARD WASTE — Leaves, grass clippings, yard and garden vegetation, tree trimmings and Christmas trees.

Section 215.020. Purpose. [Ord. No. 1042 §2, 6-10-2004]

Unkempt, unsafe, unsanitary and otherwise improperly maintained properties, structures, sidewalks and easements within the City materially and adversely affect the use and habitability of nearby property and of property within the City as a whole. Additionally, such conditions pose hazards to the public health, safety and welfare. Properties that are unkempt, unsafe, unsanitary and/or dangerous may materially and adversely affect the economic well-being of the City. This Chapter, in accordance with the procedures set out herein, establishes necessary and proper procedures to prosecute owners and occupants for nuisances, to provide for the abatement of such nuisances and other improperly maintained structures and properties as they are described or found to exist, to charge the costs of the abatement to the owners and/or occupants of the property upon which the nuisance and/or improper maintenance exists, as well as the property itself and to provide for procedures for permanent prevention of nuisances. This Chapter is an exercise of the City's Police power and shall be liberally construed.

Section 215.030. Penalty. [Ord. No. 1042 §3, 6-10-2004]

- A. Any person, including any owner, occupant or other entity, who violates any provision of this Chapter shall be subject to the following:
1. *Prosecution.* Upon conviction of violation of any provision or requirement of this Chapter, the person shall be subject to punishment by a fine not to exceed five hundred dollars (\$500.00) or be imprisoned in jail for not more than three (3) months, or both such fine and imprisonment. It shall be a separate offense for each day the nuisance is allowed or continues to exist.
 2. *Abatement.* Upon determination that a nuisance exists, the City may abate the nuisance and assess the costs thereof in accordance with the provisions of this Chapter.
 3. *Injunction.* In order to eliminate, remove or prevent a nuisance or other violation of this Chapter, the City Attorney may obtain such civil redress as may be appropriate under the circumstances, including restraining orders and injunctions.

ARTICLE II
Nuisance Provisions

Section 215.040. Maintaining A Nuisance. [Ord. No. 1042 §4, 6-10-2004]

- A. *Responsibility.* No owner, occupant or other person in possession, charge or control within the City limits shall cause, maintain or permit a nuisance as defined by the laws of the State or this Chapter. It shall be the duty of each owner, occupant or person in possession, charge or control of any property to maintain that property, together with one-half (½) of the platted City right-of-way abutting thereon or street or alley abutting thereon, as not to allow the accumulation of debris, refuse, rubbish, trash or nuisances as defined in or described by this Chapter. Every owner, occupant or person in possession of any property within the City shall be responsible for maintaining all property under his/her control in accordance with the requirements of this Chapter.

- B. *Prima Facie Evidence Of Nuisance.* If the nuisance is on private property, proof that a person occupies the property or that a person has possession or the right to possession of the property shall constitute prima facie evidence that such person has caused, maintained or permitted the nuisance and such person shall be responsible for its existence and for its abatement.
- C. *Entry Upon Property.* A representative of the City may enter upon private property for inspection or abatement purposes in accordance with this Chapter. If any person refuses to allow entry onto his/her private property, City staff may obtain a warrant from the proper official and proceed in accordance therewith.

Section 215.050. Placing Items On Public Property. [Ord. No. 1042 §5, 6-10-2004]

It shall be unlawful for any person or entity to deposit, place, dump, pour or drain onto any street, highway or any public property within the City limits any filth, refuse, rubbish, sewage, trash or nuisance or any substance that emits any foul, noxious or disagreeable odor or that attracts insects, vermin or other pests.

Section 215.060. Nuisance Defined and Exemptions. [Ord. No. 1042 §6, 6-10-2004]

- A. Any condition or item which causes a threat to the health, safety or welfare of the public or which prohibits routine maintenance of the premises or which meets any of the definitions of a nuisance in this Chapter shall be declared a nuisance. The term "*nuisance*" shall include, but is not limited to:
 - 1. *Burning.* The burning, causing to burn or authorizing the burning of any item, including twigs, branches, shrubbery, rubbish or refuse, upon any street, sidewalk or public alleyway.
 - 2. *Debris, refuse, rubbish, trash.* Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels, bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly and systematically (must be in rear yard), flammable materials, foliage and shrub clippings or cuttings, garbage, gasoline, grass, household furniture, iron or other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard; untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paint, paper, piled brush and fallen tree limbs or debris, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, rank growth of vegetation, roof shingles, rubber, sawdust, slag, slop, soot, straw, sweepings, tacks, tarpaulin not in good repair, tire(s)) (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire, wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any condition or item that would prohibit the routine maintenance of the property.

3. *Disease or breeding of insects or vermin.* Any existing condition or item which harbors or fosters the spread of disease or the breeding of insects or vermin.
 4. *Excessive exterior lighting.* Directing, arranging or using exterior lighting from any property or areas so that the light shines or glares on another property, thereby adversely affecting the use and enjoyment of those persons who own or use the property.
 5. *Furniture, outdoor.* Any furniture, including sofas, divans, recliners and similar objects, which are not designed for outdoor use but which are maintained or located on any porch, lawn, parking lot, driveway or public right-of-way.
 6. *Noxious or offensive odors.* Any condition or item causing a noxious or offensive odor that is discomforting and interferes with the free use of residential property.
 7. *Pools of water.* Unmaintained water pools and ponds that become stagnant and may cause a location for breeding of insects.
 8. *Prohibited vehicles.* All vehicles declared a nuisance by this Chapter, including junk vehicles, elevated vehicles, unlicensed vehicles and abandoned vehicles.
 9. *Waterway pollution.* Placing, throwing or causing tree limbs, brush or any trash (including bottles and cans) to enter into or be in any natural waterway located in or owned by the City.
 10. *Weeds and rank growth of vegetation.* Any weeds or rank growth of vegetation or noxious weeds prohibited as a nuisance by this Chapter.
 11. *Miscellaneous.* Any act done or committed or suffered to be done or committed by any person or any substance or thing kept, maintained, placed or found in or on any public or private place which is annoying or damaging or injurious or dangerous to the public health or welfare or safety and every act or thing done, permitted, maintained, allowed or continued on any property, public or private, by any person which is liable to or does endanger, annoy, damage or injure any person or any inhabitant of the City or property of said person or inhabitant.
- B. *Exemption.* The term "*nuisance*" shall not include composting, which is a controlled biological reduction of organic waste to humus, as follows:
1. All compost piles shall be maintained using approved composting procedures in compliance upon the following terms:
 - a. All compost shall be enclosed in a freestanding compost bin. Each compost bin shall be no larger in volume than seventy-five (75) cubic feet for properties ten thousand (10,000) square feet and less in size, with an additional seventy-five (75) cubic feet permitted for each

additional ten thousand (10,000) square feet. Compost bins shall be no higher than five (5) feet.

- b. All compost piles shall be maintained so as to prevent the attraction or harborage of rodents and pests. The presence of rodents or other pests in or near a compost pile shall be cause for the City to issue a complaint.
 - c. All compost piles shall be maintained so as to prevent unpleasant, rotten, egg-like, putrefactive, sweet, sour or pungent odors.
 - d. All compost piles shall be located in the rear yard of the property. No compost pile shall be located less than two (2) feet from the rear or side property line or within twenty (20) feet of any home, patio, pool or similar structure or on any adjacent property.
 - e. No compost pile shall be located where it will impede the natural free flow of stormwater drainage.
2. No compost pile shall contain any of the following:
- a. Animal carcasses;
 - b. Fish, fowl, meat or other animal products;
 - c. Food scraps;
 - d. Fruits, vegetables or nuts;
 - e. Items not normally composted;
 - f. Lake weeds; and
 - g. Manure.
3. Permitted ingredients in a compost pile may include:
- a. Commercial compost additives;
 - b. Wood chips; and
 - c. Yard waste.
4. Compost piles established in accordance with this Chapter shall be for private use only and there shall be no commercial delivery or providing of material that has been composted in a residential area.

Section 215.070. Prohibited Vehicles Defined As A Nuisance. [Ord. No. 1042 §7, 6-10-2004]

A. The following vehicles shall be prohibited and are declared a nuisance:

- 1. *Abandoned vehicle.* Any unattended motor vehicle, trailer, all-terrain vehicle or outdoor motor or any vessel removed or subject to removal from a public or private property as provided in this Chapter, whether or not operational, or any motor vehicle on the right-of-way of any public road or State highway or

on any private property owned by another without the consent of the owner or occupant.

2. *Elevated vehicle.* Any vehicle, licensed or unlicensed, which is raised but not supported under the axles or is raised to a height where the tires are more than two (2) inches off of the ground.
3. *Junk vehicle.* Any type of self-propelled device or part thereof designed to be self-propelled, that is moved by power, other than human power, is designed to travel along the ground, is located on private property and is damaged, stripped or wrecked or has missing wheels or tires or flat tires or broken or missing window glass and located outside of an enclosed structure. Junk vehicles shall include, but not be limited to, all-terrain vehicles, automobiles, motorcycles, snowmobiles, tractors, trailers, trucks and wagons.
4. *Unlicensed vehicle.* Any type of self-propelled device or part thereof that is moved by power, other than human power, is designed to travel along the ground, is located on private property located outside of an enclosed structure and does not have showing a current State license plate or is improperly registered or licensed pursuant to any State or local laws or regulations. Unlicensed vehicles shall include, but not be limited to, automobiles, motorcycles, trailers and trucks. An unlicensed vehicle shall not be allowed to exist on private property outside of an enclosed structure.
5. The following shall be exempt from this Section:
 - a. Vehicle(s) or parts thereof that are in disrepair and are located on the premises of a duly licensed automobile repair or sales business for a period not to exceed three (3) months.
 - b. Vehicle(s) located on the premises of a duly licensed motor vehicle junk business or junk yard maintained in accordance with City Code and hold a valid Missouri license.

Section 215.080. Weeds, Rank Growth of Vegetation and Noxious Weeds Prohibited As Nuisance. [Ord. No. 1042 §8, 6-10-2004]

- A. No owner, occupant or person in possession, charge or control of any property shall allow or permit weeds, rank growth or noxious weeds as defined herein to exist or be maintained on that property or on one-half (½) of the platted right-of-way abutting thereon or on the street or alley abutting thereon.
- B. All weeds, grasses and non-agricultural plants which are seven (7) inches or more in height or any other rank growth of vegetation that may be injurious to health by releasing particulate matter into the atmosphere or other means or which are considered noxious by the State of Missouri, obstructs vehicular or foot traffic, infringes upon the enjoyment or use of adjacent properties or may be conducive to fires or combustion are declared to be a nuisance.

- C. On property of three (3) acres or more that is either agricultural in character or a woodland, the owner or occupant shall ensure that all weeds and rank growth of vegetation shall be cut within fifty (50) feet of all private or public property lines, including public rights-of-way.
- D. Noxious weeds as defined by State law are declared a nuisance and shall be entirely removed from agricultural, commercial and residential lots.

Section 215.085. Dead, Decayed or Diseased Trees Prohibited As Nuisance. [Ord. No. 1115 §1, 5-8-2008]

- A. It shall be unlawful for the owner of any lot or parcel of ground in the City to maintain or allow to stand upon such lot or parcel of ground any tree or tree limb which, due to a diseased, decayed or broken condition or for any other reason, endangers or is likely to injure any person or property in and upon a street, sidewalk, City right-of-way or any adjacent property in the City or to cause damage to any tree of other landowners by the spread of a contagious disease.
- B. It shall be the duty of the owner of any lot or parcel of ground in the City to properly cause such trees or tree limbs as are described in Subsection (A) of this Section to be cut down and no tree or tree limb in the City, which has been cut down or which has fallen or been broken down, shall be permitted to remain in or upon any sidewalk, street or adjacent property in the City or so near thereto as to endanger any person thereon and it shall be the duty of the owner of such lot or parcel of ground to cause the same to be promptly removed and it shall be unlawful for any such owner to fail so to do.

ARTICLE III
Abatement Provisions

Section 215.090. Determination, Responsibility and Notice. [Ord. No. 1042 §9, 6-10-2004]

- A. Whenever the Mound City Police Department or its designee determines that a nuisance exists as defined in this Chapter, in addition to any other remedies provided by law, the procedure for abatement shall be as follows:
 - 1. *Notice.* Notice shall be required in order to abate the nuisance pursuant to the provisions of this Section but shall not be a prerequisite for a violation of this Chapter. The City Clerk or his/her designee shall first notify the person causing, maintaining or permitting the nuisance that he/she must abate or remove such nuisance within seven (7) calendar days. Such notice shall include a description of the nuisance to be abated, the location of the nuisance and the alternatives described in this Chapter.
 - 2. Initial notification shall be made by delivering the notice or by depositing it in the United States mail, postage prepaid, addressed to the owner of the property and/or the person occupying the property. If notification is not made by delivery or by mail, then it may be provided by one (1) or more of the following methods:

- a. Notification may be provided by posting upon such property a notice containing an order to abate or remove the nuisance within the time to be specified in this Chapter, or
 - b. If the above method of service of notice cannot be successfully completed, then notice may be given by a publication of said notice one (1) time in a newspaper published in Holt County.
3. *Failure to give notice.* If the property has been posted with a notice to abate the nuisance, failure to give notice in any other manner as set forth in this Section shall not invalidate a lien against the land for the costs associated with abating the nuisance.
 4. *Emergency abatement.* The Mayor shall have the power to summarily abate, in any reasonable manner, of any nuisance which constitutes an immediate danger to the health, safety and welfare of the inhabitants of the City.

Section 215.100. Alternatives in Response To Notice. [Ord. No. 1042 §10, 6-10-2004]

- A. Any person notified under this Chapter to abate a nuisance shall exercise one (1) of the following alternatives within seven (7) days from service of notice:
 1. Abate the nuisance at the expense of the person so notified;
 2. Furnish the City Clerk with written consent for the City to abate the nuisance with the costs of such abatement to be assessed to the person consenting. In such circumstance, the person notified to post a bond or deposit in an amount equal to anticipated costs of the abatement as determined by the City; or
 3. File a written request with the City Clerk requesting a reconsideration hearing before the Board of Aldermen, challenging the allegation that a nuisance exists.

Section 215.110. Reconsideration Procedure. [Ord. No. 1042 §11, 6-10-2004]

- A. *Procedure.* Whenever a reconsideration hearing is requested pursuant to this Chapter, the City Clerk shall give notice to all interested parties, including the owner and occupant of the property, of the date, time and place of a public hearing to be held to determine whether a nuisance exists. All persons notified shall be given an opportunity to present evidence and make arguments to the Board of Aldermen and be represented by an attorney.
- B. *Conduct Of Hearing.* The Board of Aldermen shall consider all information, documents and testimony presented at the hearing and then render a decision thereon which may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from. The hearing need not be conducted according to the applicable rules of evidence as applied by judicial bodies in the State of Missouri. However, a fair and impartial forum shall be provided at which each party shall have the right to:

1. Call and examine witnesses on any manner relevant to the issues of the hearing;
 2. Introduce documentary and physical evidence;
 3. Cross-examine opposing witnesses on any manner relevant to the issues at the hearing;
 4. Impeach any witness regardless of which party called him/her to testify;
 5. Rebut the evidence against him/her;
 6. Represent himself/herself or be represented by an attorney.
- C. *Findings.* If the Board of Aldermen determines that a nuisance does exist, the Board shall issue to the City Clerk an order to abate the nuisance in any reasonable manner and assess the costs against the property. The order shall contain written findings of fact and a copy of the order shall be provided to all interested parties.
- D. *Appeal.* When a reconsideration hearing is requested as provided herein and the Board of Aldermen finds that a nuisance exists, an appeal may be taken from that decision by filing for the appropriate relief in the Circuit Court of Holt County, Missouri, pursuant to the procedure established in Chapter 536, RSMo.

Section 215.120. Abatement Procedures. [Ord. No. 1042 §12, 6-10-2004]

- A. *Confirmation Of Nuisance.* If the person notified fails to exercise one (1) of the alternatives provided in this Chapter, gives permission to the City to abate the nuisance in accordance with the procedures in this Chapter or if the reconsideration hearing does not result in a reversal of the finding of a nuisance and the person has exhausted or waived his/her appeal rights, then the City Clerk or his/her designee may proceed with the abatement of the nuisance in any reasonable manner. The costs of the abatement and the administrative processing of the nuisance against the property shall be assessed as provided in this Chapter.
- B. *Storage, Redemption, Sale.* After the determination that a nuisance exists, items having any apparent monetary value, beyond salvage value, removed during the nuisance abatement shall be transported to a storage area or lot at the expense of the owner or person in custody thereof. The property shall then be stored for a period of at least thirty (30) days and the person entitled to possession thereof may redeem the property by payment to the City the actual cost of removal and a reasonable storage and administrative processing fee. If any item is unredeemed after the expiration of the thirty (30) day period, the City Clerk or his/her designee may sell it to the highest bidder or, if it has no sale value, may otherwise dispose of it. Any money received from the disposal of any item shall be applied to the costs charged to the owner or person in charge thereof.
- C. *Towing.* The Mound City Police Department or its designee may tow any motor vehicle or other property as authorized by this Code.

D. *Notice Of Sale.* Prior to the sale of any such property obtained in a nuisance abatement, the City Clerk or his/her designee shall cause to be posted in City Hall, at the place of storage and in at least one (1) other public place in the City, a notice of sale stating:

1. The City is selling abandoned property;
2. The color, make, year, motor number and serial number, if available, and any other information necessary for an accurate identification of the property;
3. The terms of the sale;
4. The date, time and place of the sale.

The notice shall be published at least once seven (7) days prior to the sale in a newspaper published in Holt County.

Section 215.130. Assessment of Abatement Costs. [Ord. No. 1042 §13, 6-10-2004]

- A. If the abatement is performed by City employees, the cost of the abatement shall be calculated according to the schedule of costs promulgated by the City Clerk and kept on file in the office of the City Clerk. This schedule is to be determined after an analysis by the City Clerk to determine an accurate estimation of the costs incurred by the City to abate nuisances subject to this Section.
- B. If the abatement is performed by contractors hired by the City, the costs charged for the abatement will be the actual amount paid to the contractor for the abatement performed.
- C. Any and all direct fees and costs, including, but not limited to, all administrative fees authorized by this Chapter and all hauling and landfill fees, shall be included in the abatement cost.

Section 215.140. Collection of Abatement Costs and Lien. [Ord. No. 1042 §14, 6-10-2004]

- A. When the City expends any funds in the abatement of any nuisance, the City Clerk or his/her designee shall notify, by certified mail, the person against whose property the costs were incurred of said costs. The City Clerk shall certify the costs incurred in abating the nuisance and administratively processing the nuisance, together with the description of the property.
- B. The cost of administratively processing the abatement shall be seventy-five dollars (\$75.00) for regular abatement action, two hundred dollars (\$200.00) for large special bids and six hundred dollars (\$600.00) for railroad bids.
- C. The person notified shall have thirty (30) days from the mailing of said notice within which to pay the costs of the abatement to the City Clerk. If the person so notified fails to pay the costs of the abatement within thirty (30) days, the City Clerk shall immediately, upon the receipt of this information, enter an assessment in the appropriate books of the City to be kept for that purpose; and upon the entry of this assessment a lien will attach to the property. The City Clerk shall cause a

special tax bill therefor against the property be prepared and collected by the Collector with other taxes assessed against the property. Such tax bills if not paid when due shall bear interest at the rate of eight percent (8%) per annum.

ARTICLE IV
Towing

Section 215.150. Open Storage of Prohibited Vehicles. [Ord. No. 1042 §15, 6-10-2004]

The open storage of prohibited vehicles or other vehicles deemed by the City to constitute a public safety hazard is prohibited. This section shall not apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with any applicable provision of this Code and the property is in compliance with applicable zoning ordinances.

Section 215.160. Towing of Abandoned Motor Vehicles On Public Real Property. [Ord. No. 1042 §16, 6-10-2004]

- A. Any law enforcement officer or official of the City may authorize a towing company to remove the following to a place of safety:
1. Any abandoned motor vehicle on the right-of-way on any state or Federal highway, left unattended for more than twenty-four (24) hours. However, a commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed 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 motor vehicle illegally left upon any roadway or bridge in a position or under such circumstances as to obstruct the normal movement of traffic and there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal.
 3. Any motor vehicle located on a public roadway which has been reported as stolen or taken without consent of the owner.
 4. Any motor vehicle when the person operating such vehicle is arrested for an offense for which the officer takes the person into custody and the person is unable to arrange for the property's timely removal.
 5. Any motor vehicle located on public property which is subject to towing because of the owners' outstanding traffic or parking violations.
 6. Any abandoned motor vehicle left unattended in violation of a state law or City ordinance where the violation causes a safety hazard.
- B. When law enforcement authorizes a tow pursuant to this Section and the property is moved, a crime inquiry and inspection report shall be completed.

Section 215.170. General Provisions and Procedures. [Ord. No. 1042 §17, 6-10-2004]

- 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 in this Chapter.
- B. *Crime Inquiry And Inspection Report.* Upon notification or completion of towing of any property pursuant to this Chapter, the Mound City Police Department; or its designee, shall promptly make an inquiry with the National Crime Information Center (NCIC) and any statewide Missouri law enforcement computer system to determine if the property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system.
- C. 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;
 - 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 property;
 - 7. The date of the inquiry of the National Crime Information Center, any statewide Missouri law enforcement computer system, and any other similar system which has titling and registration information to determine if the property had been stolen. This information shall be entered only by the Maryville Public Safety Department;
 - 8. The signature and printed name of the law enforcement officer authorizing the tow;
 - 9. The name of the towing company, the signature and printed name of the towing operator, and an indicator disclosing whether the tower has online access to the department's records; and
 - 10. Any additional information the Missouri Director of Revenue deems appropriate.
- D. *Failure To Claim Property.* If the property is not claimed within ten (10) working days of the; towing, the Mound City Police Department, or its designee, shall submit a crime inquiry and inspection report to the Missouri Director of Revenue. The Mound City Police Department shall also provide one copy of the report to the storage facility and one copy to the towing company. A towing company in

possession of property after ten (10) working days shall report such fact to the Mound City Police Department.

- E. *Reclaiming Property.* The owner of such 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 property.
- F. *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 Mound City Police Department within two (2) hours of the repossession and shall further provide the Department with any additional information the Department deems appropriate. The Department 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.
- G. *Notice To Owner/Tow Lien Claim.* Any towing company which comes into possession of property pursuant to this Chapter and who claims a lien for recovering, towing or storing 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 State law including 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 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 property is redeemed;
 - 4. A statement that the storage firm claims a possessory lien for all such charge;
 - 5. A statement that the owner or holder of a valid security interest of record may retake possession of the 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 property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the property will be transferred to the person or firm in possession of the property free of all prior liens; and

8. A statement that any charges in excess of the value of the property at the time of such transfer shall remain a liability of the owner.

H. *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 property itself. The towing company must certify that a physical search of the 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 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 of the law enforcement report for a license plate number or registration number;
3. If there is no address of the owner on the impound report, check of the law enforcement report to see if an out-of-state address is indicated on the driver license information.

I. *Petition In Circuit Court.* Within ten (10) days after the receipt of notification from the towing company, the owner of the property removed pursuant to this Chapter or any person claiming a lien, other than the towing company, may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. 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.