

TITLE III COMMUNITY PROTECTION
CHAPTER 10 JUNK AND ABANDONED VEHICLES

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3-10-1 **PURPOSE** The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

3-10-2 **DEFINITIONS.** For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:
 - a. A vehicle that has been left unattended on public property for more than forty-eight hours and lacks current registration plates or two or more wheels or other parts which render the vehicle totally inoperable; or
 - b. A vehicle that has remained illegally on public property for more than seventy-two hours; or
 - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
 - d. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten days; or
 - e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic. (Code of Iowa, Sec. 321.89(1)(b))

2. "Private property" means any real property within the City which is not public property as defined in this section.
3. "Public property" means any public right-of-way open for the purpose of vehicular travel.
4. A "junk vehicle" means any unlicensed vehicle stored within the corporate limits of the City of Letts, Iowa, and which has any one of the following characteristics:
 - a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.
 - b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, truck top or trunk handle or tail pipe.
 - c. Any vehicle which has become the habitat of rats, mice or snakes, or any other vermin or insects.
 - d. Any vehicle which contains gasoline or any other flammable fuel.
 - e. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.
 - f. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety. (Cedar Falls v. Flett 330 N. W. 2nd 251, 253, Iowa 1983)
5. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The Chief of Police may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2(1). The Chief of Police may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.
2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council
3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the chief of police shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow. (Code of Iowa, Sec. 321.89(2))

4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of state law, the Chief of Police shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record and any other known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:
 - a. Describe the year, make or model, and serial number of the vehicle.
 - b. Describe the personal property found in the vehicle.
 - c. Describe the location of the facility where the vehicle is being held.
 - d. Inform the persons receiving notice:
 1. of their right to reclaim the vehicle and personal property within twenty-one days after the effective date of the notice;
 2. that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
 3. that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle
 4. that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.
 - e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of section 3-10-6.
 - f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the twenty-one day reclaiming period.
 - g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting cash bond as required by section 3-10-5. (Code of Iowa, Sec. 321.89(3)(a))
2. The owner or any person receiving notice may be, by written request received by the Chief of Police prior to the expiration of the twenty-one day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:
 - a. the identity of the last registered owner cannot be determined, or
 - b. the registration contains no address for the owner, or
 - c. it is impossible to determine with reasonable certainty the identity and address of all lienholders. (Code of Iowa, Sec.321.89(3)(b))
4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.
5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the twenty-one day reclaiming period. (Code of Iowa, Sec. 321.89(3))

3-10-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the chief of police evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:
 - a. An impoundment fee of \$100.00
 - b. Towing charges
 - c. Preservation
 - d. Storage charges of \$3.00 per day
 - e. Notice charges(Code of Iowa, Sec. 321.89(3))
2. The amount of the charges specified shall be set by the City Council. The notice charges shall be limited to the actual cost.
3. If a hearing is requested under section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting cash bond in an amount equal to the sum of:
 - a. The fees required by Sec. 3-10-5(1)

- b. The amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

3-10-6 HEARING PROCEDURES.

1. The registered owner, and lienholder or record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq. (Code of Iowa, Sec. 321.89(3))

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in state of law for the auction or disposal of abandoned vehicle. (Code of Iowa, Sec. 321.89(4))

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Letts, Iowa, constitutes a threat to is stored upon the health and safety of the citizens and is a nuisance within the meaning of section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

3-10-9 AUTHORITY TO ENFORCE. The Chief of Police, upon obtaining a search warrant, may enter upon private property for the purpose specified in this chapter to examine vehicles or parts thereof, obtain information as to the identity of vehicles, and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter.

3-10-10 NOTICE TO ABATE.

1. Whenever the Chief of Police shall find a junk vehicle placed or stored on public or private property within the city in violation of 3-10-8, the Chief of Police shall notify, by certified mail with five days' return receipt, the following persons:
 - a. The owner of the property
 - b. The occupant of the property
2. The notice to abate shall:
 - a. Describe, to the extent possible, the year, make model, and color of the vehicle
 - b. Describe the location of the vehicle
 - c. State that the vehicle constitutes a nuisance under the provisions of this chapter
 - d. State that the owner of the property shall remove or repair the said junk vehicle within ten days.

3-10-11 DUTY OF OWNER TO REMOVE OR REPAIR.

1. The owner of the property upon which a junk vehicle is stored in violation of the provisions of 3-10-8 shall within ten days after receipt of the notice to abate from the Chief of Police remove the motor vehicle or machinery to lawful place of storage without the City limits, or repair the defects that cause such motor vehicle or machinery to violate the provisions of this chapter, including licensing in the case of a motor vehicle not currently licensed.
2. If a hearing is requested under 3-10-12, the duty of the owner to remove or repair the junk vehicle shall be suspended pending the decision.

3-10-12 HEARING PROCEDURES-JUNK VEHICLE

1. Any person ordered to abate a nuisance or condition may request a hearing before the City Council or an official of the City designated by City Council, to determine whether a nuisance or prohibited condition exists.
2. A request for a hearing shall be made in writing and filed with the City Clerk within the ten day limit, or
 - a. The right to a hearing shall be considered waived and
 - b. It will be conclusively presumed that the nuisance or prohibited condition exists and it must be abated as ordered.
3. The City Council shall, within fifteen days after the filing of the request for a hearing, fix the time and place of the hearing, which shall be within thirty days of the filing of the request.
4. At the conclusion of the hearing, the City Council, or its designee, shall render a written decision as to whether a nuisance exists. If nuisance is found to exist, it shall be ordered abated within a reasonable time.
5. The decision shall be final.

3-10-13 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed the City Clerk who shall pay such expenses on behalf of the municipality. (Code of Iowa, Sec. 364.12(3) (h))

3-10-14 COLLECTION OF COST OF ABATEMENT. The clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to County Auditor and the costs shall then be collected with and in the manner, as general property taxes. (Code of Iowa, Sec. 364.12(3) (h))

3-10-15 EXCEPTIONS. This chapter shall not apply to the following:

1. A vehicle in an enclosed building.

2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the zoning ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-10-16 INTERFERENCE WITH ENFORCEMENT. Any person who shall interfere in any way with the enforcement provision of this chapter shall be deemed guilty of a simple misdemeanor and punished accordingly.

3-10-17 PENALTY. Any person failing to remove or repair any junk vehicle or machinery stored on private property in violation of section 3-10-8 shall be deemed guilty of a simple misdemeanor and, upon conviction, be subject to imprisonment not exceeding thirty days, or a fine not exceeding \$100.

3-10-18 SEVERABILITY if any section, provisions, or part of this chapter shall be adjusted invalid or unconstitutional, such adjudication shall not affect the validity of this chapter as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

