

ORDINANCE NO. 0-1-04

ABANDONED AND JUNK VEHICLES

Be it enacted by the Council of the City of Bertram, Iowa:

SECTION I. Purpose. The purpose of this chapter is to protect the health, safety and welfare of the citizens and promote safety of property with the City by providing for removal of abandoned and junk vehicles and the elimination of the open storage of abandoned and junk vehicles.

SECTION II. Definitions. For use in this ordinance, the following terms are defined:

1. "Abandoned Vehicle" shall mean any of the following:
 - a. Any vehicle as defined by Section 321.1 of the code of Iowa, as amended, or any motor vehicle, recreational vehicle, boat, trailer, or semi trailer that has been left unattended on public property (streets and public grounds) for more than forty-eight (48) hours and lacks current registration plates or two (2) or more wheels or other structural parts which renders the vehicle totally inoperable; or
 - b. A vehicle that has remained illegally on public property for more than seventy-two (72) 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 (24) hours; or
 - d. A motor vehicle that has been legally impounded by the City and has not been reclaimed for a period of ten (10) days; or
 - e. Any vehicle parked on a public roadway determined by the City to create a hazard to other vehicle traffic; or
 - f. A vehicle that has been impounded pursuant to Iowa Code Section 321J.4(b), as amended, by order of a court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order pursuant to Iowa Code §321J, as amended.
 - g. A vehicle shall not be considered abandoned for a period of five (5) days if its owner or operator is unable to move the vehicle and notifies the City and requests assistance in the removal of the vehicle.
2. "Junk Vehicle" shall mean any vehicle as defined by §321.1 of the Code of Iowa, as amended, or any motor vehicle, recreational vehicle, boat, trailer, or semi trailer which is located within the corporate limits of the City of Bertram which lacks a current registration, valid for that vehicle, and/or which has any one or more of the following characteristics:
 - a. Has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours; or
 - b. Lacks an engine or two or more wheels or other component part which render the vehicle unfit for legal use; or

- c. Has a broken or cracked windshield, window, headlight, or taillight or any other cracked or broken glass; or
 - d. Has a broken or loose fender, door, bumper, hood, door handles, window handles, running board, steering wheel, trunk top, trunk handle, tail pipe or other structural or decorative piece; or
 - e. Has become a habitat for rats, mice, snakes, or any other vermin or insects; or
 - f. Any vehicle which contains gasoline, other than that in the fuel tank, or other flammable fuel; or
 - g. Which because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
3. "Nuisance" shall mean whatever is injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

SECTION III. Removal of Abandoned Motor Vehicles. The City may direct the Linn County Sheriff, his/her authorized representative, the person, firm or corporation designated for the purposes set forth below, to remove and impound any abandoned motor vehicle as defined in this Ordinance, whether such vehicle is operable or totally inoperable from either public or private property consistent with this Ordinance. Impoundment shall be in any City-owned garage or area, or in any privately owned public garage or area designated by the City Council.

SECTION IV. Notice to Owner and Lienholder. The City Clerk shall notify by certified mail within twenty (20) days of having taken possession of the abandoned operable motor vehicle, the last known registered owner of the motor vehicle, all lienholders of record and any other known claimant to the vehicle or to the personal property found in the vehicle, addressed to their last known address of record, that the abandoned motor vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it is being held, inform the persons receiving notice of their right to reclaim the property within twenty (20) days after the effective date of the notice upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody and upon payment of the costs of giving notice as required by this section. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, claim and interest in the vehicle and that such failure to reclaim is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher. The notice shall state that any person claiming rightful possession of the vehicle who disputes the planned disposition of the vehicle or of the assessment of fees and charges may ask within twenty (20) days of receipt of the notice, for an evidentiary hearing before the City Council to contest these matters. If the persons receiving notice do not exercise their right to reclaim or to a hearing within the 21-day reclaiming period, they shall have no further right, title claim or interest in or to such motor vehicle as provided by law.

If the identity of the last registered owner of an abandoned but operable vehicle cannot be determined, or if the registration contains no address for the owner, or if it is

impossible to determine with reasonable certainty the identity of and addresses of all lienholders, notice by one publication in one newspaper of general circulation in this City shall be made by the City. Multiple listings may be included in said notice if they are subject to the same time limits. The same information as prescribed for mailing notice shall be included in such publication.

The owner or any lienholder may, by written request delivered to the City Clerk prior to the expiration of twenty-one (21) day reclaiming period, obtain an additional fourteen (14) days within which the vehicle may be reclaimed.

SECTION V. Impoundment Fees. The owner or lienholder shall pay the total amount of towing, storage charges, and notice costs incurred in the removal and holding of the vehicle prior to reclaiming the vehicle. The rate of charges shall be established by resolution of the Council before the provisions of this Ordinance are carried out by the Linn County Sheriff, his/her authorized representative, or the person, firm or corporation designated to do so.

SECTION V. Auction of Abandoned Vehicles. If an abandoned vehicle has not been reclaimed as provided for in this Ordinance, the City shall make a determination as to whether or not the vehicle shall be sold for use upon public highways. If the vehicle is not sold for use upon public highways, it shall be sold for junk, or demolished and sold for scrap. The City shall sell the vehicle at public auction. Notwithstanding any other provision of this Ordinance, the City (or the Linn County sheriff, his/her representative, and/or any other person, firm or corporation designated to remove abandoned motor vehicles) which is taking into possession any abandoned vehicle which lacks an engine or two or more wheels, or another part which renders the vehicle totally inoperable, may dispose of the vehicle to a demolisher for junk after complying with the notification procedures set forth in this Ordinance, without public auction. The purchaser of the vehicle at such auction takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the City, and is entitled to register the vehicle and receive a Certificate of Title if sold for use upon the public highways pursuant to Iowa Code §321.89(4), as amended. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a Junking Certificate to the Linn County Treasurer within fifteen (15) days of purchase of the abandoned vehicle, and shall surrender the sales receipt described above in lieu of the Certificate of Title.

From the proceeds of the sale of an abandoned vehicle, the City shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned vehicle in the custody of the City, all notice and publication costs incurred pursuant to this Ordinance, the cost of inspection, and any other costs incurred except those costs of bookkeeping and other administrative costs. Any remaining proceeds from the sale of an abandoned vehicle shall be held for the owner of the vehicle or entitled lienholder for ninety (90) days, and shall then be deposited in the Road Use Tax fund. The costs to the City of auction, towing, preserving, storage, and all notice and publication costs, and all other costs which result in taking an abandoned vehicle into custody, in the event that the proceeds from the sale of the abandoned vehicle are insufficient, and these expenses cannot be paid, then the City shall seek payment from the Road Use Tax Fund.

SECTION VI. Duties of Demolisher. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk under the provisions of this article shall

junk, scrap, wreck, dismantle, or demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the Junk Certificate issued for the vehicle. The Junk Certificate shall be obtained pursuant to this Ordinance.

SECTION VII. Junk Vehicles as Nuisance. Every junk vehicle located upon private property within the corporate limits of the City of Bertram, Iowa, constitutes and is hereby declared a nuisance, a threat to the health and safety of the Bertram citizens, and as being offensive to their senses. Any junk vehicle located upon private property in violation hereof, wherein the owner of the vehicle is the owner or person in control of the property upon which it is located, shall be prima facie liable for creating and maintaining such nuisance.

SECTION VIII. Exceptions. The provisions of this Ordinance shall not apply to any junk vehicle located within a garage or other completely enclosed structure or upon any of the following premises, as long as a garage, structure, or premises is not in violation of any provision of the Municipal Code of the City of Bertram:

1. Authorized vehicle recycler (as defined in Iowa Code §321H, as amended); or
2. Licensed motor vehicle dealership (as defined in Iowa Code §322C, as amended); or
3. Motor home and travel trailer dealership (as defined in Iowa Code § 322C, as amended); or
4. Farm implement dealership (as defined in Iowa Code §322D, as amended); or
5. Motorcycle, snowmobile, ATV, and/or other recreational vehicle dealership (as defined in Iowa Code §321.1(40) and §321G, as amended); or
6. Motor vehicle franchisor and/or franchisee (as defined in Iowa Code §322A, as amended); or
7. Junk/salvage yard (as defined in City of Bertram Zoning Ordinances); or
8. Towing Service Company licensed to operate as such with the Iowa Department of Transportation.

The City of Bertram will set a time limit allowable for the placement of junk vehicles at any of the above listed commercial properties. This time limit shall be the minimum necessary for the business and not more than 180 days. One of the above listed businesses may apply for a one-time 10-day extension of this time limit by contacting the City Clerk's office which will be granted only in the most exceptional cases.

SECTION IX. Right of Entry. The Linn County Sheriff, his/her authorized representative, and/or the person, firm or corporation designated to abate nuisances pursuant to this Ordinance and the Municipal Code of the City of Bertram, are hereby authorized to access any property upon which a junk vehicle is located for the purpose of carrying out any and all actions required by this Ordinance, at the City's direction.

SECTION X. Notice to Abate. Upon discovery of any junk vehicle located on private property in violation of this Ordinance, the City Clerk or his/her duly authorized representative shall notify, in writing, the owner of the property upon which the vehicle is located and the owner of the vehicle, if known, that:

1. The junk vehicle constitutes a nuisance under the provisions of this Ordinance; and

2. The junk vehicle must be removed in accordance with the provisions of this Ordinance or repair the vehicle and property display current registration plates or stickers for the vehicle within twenty (20) days; and
3. Failure to abate said nuisance as prescribed by the notice shall be sufficient cause for removal of the junk vehicle by the City as set forth in this Ordinance.

SECTION XI. Service of Notice. Any notice shall be deemed to be properly served when a copy thereof is delivered to him/her personally; or by certified mail with return receipt requested to his/her last known address. If the City selects service by certified mail, notice shall be deemed given when mailed.

SECTION XII. Duty of Owner to Remove or Repair After Notice. The owner of a junk vehicle or the owner of the property upon which it is located shall, within 20 days after the notice has been given as provided herein:

1. Immediately provide for the registration of each and every vehicle as required by the laws of the State of Iowa, including properly affixing the registration plate or sticker to the vehicle; and
2. Repair any and all conditions as defined under this Ordinance which cause such vehicle to be a nuisance as defined herein; or
3. Remove the vehicle or cause to have the vehicle removed to an authorize junk/salvage yard or to any other location provided the same complies with all applicable provisions of the Municipal Code of the City of Bertram.

SECTION XIII. Abatement by City. If the owner of the junk vehicle or owner of the property upon which the junk vehicle is located shall fail to abate the nuisance as prescribed above, the City of Bertram, by and through the Linn County Sheriff or his/her designated representative may abate such nuisance by causing the vehicle to be removed and impounded and sold or disposed of as provided for abandoned vehicles under the Municipal Code of the City of Bertram. The Council may also, by resolution, establish reasonable fees for any other costs incurred through the enforcement of this Ordinance. All costs of such abatement and enforcement shall be charged to the owner of the vehicle, if known. If, in the vent that it is not possible to determine the owner of the vehicle, all costs of such abatement and enforcement shall be charged to the owner of the property where such vehicle was located. All such costs may be assessed against the property being deemed as benefiting from the removal and collected as a special assessment in the same manner as property taxes.

SECTION XIX. Penalty. Any person, firm or corporation violating any provision, section or paragraph of this Ordinance shall be guilty of a simple misdemeanor, and upon conviction thereof be subject to a fine of not more than \$100 or be imprisoned for not more than 30 days. Each day of continuing violation shall constitute a separate offense.

RESOLUTION APPROVING ORDINANCE

Upon motion made by council person Ken R. Kula and duly seconded by council person Carlyle Bys, the City of Bertram, Iowa, does hereby approve Ordinance No. 0-1-04 attached hereto and made a part of this Resolution. The City Clerk is directed to certify the Resolution's approval.

ALL IN FAVOR:

Carlyle Bys
Ken R. Kula
Virginia Hansen
Nancy McBurney
William F. Melville

OPPOSED:

Said Resolution is approved.

Certificate of City Clerk dated this 5th day of MAY, 2004, with seal affixed certifies that the foregoing Resolution is a true and correct copy of the Resolution as passed by the City Council of the City of Bertram, Iowa, on the 5th day of MAY, 2004.

Darwin L. Hassinger
Mayor - City of Bertram

Angeline A. Brown
City Clerk - City of Bertram

Seal