

## ORDINANCE NO. 22-06

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF AUBURN, IOWA, BY AMENDING PROVISIONS PERTAINING TO ABANDONED VEHICLES

Be It Enacted by the City Council of the City of Auburn, Iowa:

**SECTION 1. SECTIONS MODIFIED.** Sections 80.03 and 80.04 of the Code of Ordinances of the City of Auburn, Iowa, are repealed and the following adopted in lieu thereof:

#### **80.03 NOTICE BY MAIL.**

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
  - A. A description of the year, make, model, and vehicle identification number of the vehicle.
  - B. The location of the facility where the vehicle is being held.
  - C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.
  - D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.
  - E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall 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 police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

*(Code of Iowa, Sec. 321.89[3])*

**80.04 RECLAMATION OF ABANDONED VEHICLES.** Prior to driving an abandoned vehicle away from the premises, a person who received or who is reclaiming the vehicle on behalf of a person who received notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in Section 321.20B of the *Code of Iowa*.

*(Code of Iowa, Sec. 321.89[3a])*

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council on the 10th day of January, 2022, and approved this 10th day of January, 2022.

  
Richard Heim, Mayor

ATTEST:

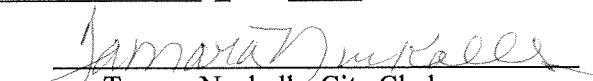
  
Tamara Nuckolls, City Clerk

First Reading: 1/10/2022

Second Reading: waived

Third Reading: waived

I certify that the foregoing was published as Ordinance No. 22-06 on the 10th day of January, 2022.

  
Tamara Nuckolls, City Clerk