

ORDINANCE NO. _____

An Ordinance to amend Title 13, Chapter 4, of the Crossville Municipal Code pertaining to abandoned or inoperable vehicles.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROSSVILLE, TENNESSEE AS FOLLOWS:

SECTION I. That Title 13, Chapter 4, Section 2, Subsection A, is amended to read as follows:

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) "Abandoned motor vehicle" means a motor vehicle that:
 - a. "Is over four (4) years old and is left unattended on public property for more than ten (10) days;
 - b. Is in an obvious state of disrepair and is left unattended on public property for more than three (3) days;
 - c. Has remained illegally on public property for a period of more than forty-eight (48) hours;
 - d. Has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours; or
 - e. Has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for more than thirty (30) consecutive days.
- (B) "Demolisher" means any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle motor vehicles;
- (C) "Immobile motor vehicle" means any motor vehicle, trailer, semi-trailer; or combination or part of a motor vehicle, trailer, or semitrailer that is immobilized and incapable of moving under its own power due to an accident, mechanical breakdown, weather conditions or other emergency situation;
- (D) "Obvious state of disrepair" means a motor vehicle exhibiting one (1) or more of the following characteristics: inoperable under its own power, without one (1) or more wheels or inflated tires, burned throughout, or with more than one (1) broken window;
- (E) "Possession" shall be construed to mean either physical possession or constructive possession by a unit of government. "Physical possession" means seizure and physical custody by a unit of government. "Constructive possession" shall be determined by the power and intent of a unit of government to control; and
- (F) "unattended motor vehicle" means any motor vehicle, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer, that is on public or private property, unattended by the owner or authorized driver and interferes with or impedes the orderly flow of traffic, or a motor vehicle that is unattended by reason of the arrest of the driver of the motor vehicle.

SECTION II. That Title 13, Chapter 4, Section 3, Subsection B, subsection 1, is amended to read as follows:

- (1) Within three (3) business days of the removal of the abandoned or inoperable vehicle, the police department shall verify ownership of such motor vehicle. The police department shall, within three (3) business days after receiving verification of ownership, notify by registered mail, return receipt requested, the last known registered owner of the motor vehicle and all lien holders of record that the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number of the abandoned, immobile, or unattended motor vehicle; set forth the location of the facility where the motor vehicle is being held; inform the owner and any lienholders of their right to reclaim the motor vehicle within ten (1) days after the date of the notice, upon payment of all towing preservation and storage charges resulting from placing the vehicle in custody; and 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 and interest in the vehicle and consent

to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction.

The police department is not required to comply with the requirements of subsection (1) if it provides pre-seizure notice to the owner of the motor vehicle and all lienholders of record that the vehicle has been found to be abandoned, immobile, or unattended. Any pre-seizure notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the owner or record and to all lienholders of record. The notice shall be written in plain language and shall contain the year, make, model and vehicle identification number of the motor vehicle, if ascertainable, the location of the motor vehicle, and a statement advising the owner that the owner has ten (10) days to appeal the determination by the police department that the vehicle is abandoned, immobile, or unattended or to remove the vehicle from the property, or the police department shall take the abandoned, immobile, or unattended vehicle into custody. The notice shall further inform the owner and any lienholders of their right to reclaim the motor vehicle after it is taken into custody but before it is sold or demolished, upon payment of all towing, preservation, storage or any other charges resulting from placing the vehicle in custody, and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the vehicle and consent to the demolition of the vehicle or its sale at a public auction. If the owner or lienholder cannot be located through the exercise of due diligence, notice by publication shall be given as set out in subsection (2). If the owner or lienholder of an abandoned, immobile, or unattended motor vehicle fails to appeal the determination that the vehicle is abandoned, immobile, or unattended or fails to remove the motor vehicle within the time allowed for an appeal, the police department may take the vehicle into custody. If an appeal is made, the motor vehicle shall not be taken into custody while the appeal is pending. Failure to appeal within the specific time period shall, without exception, constitute waiver of the right of appeal.

SECTION III. That Title 13, Chapter 4, Section 4, Subsections A and B are amended to read as follows:

(A) Notice to remove

1. Upon failure of any owner of property within the limits of the city to remove abandoned and inoperable vehicles as required in this chapter, the city, acting through the City Manager, or his or her designee, may serve a notice on the owner, lessee, occupant or person having control of the property, notifying any of them of the existence of the nuisance and ordering the person to remove the vehicle from the property within five days of service of notice, and informing the person of the time and place of the appeal to the Administrative Hearing Office. The notice shall be served by:
 - a. Personally serving the notice on the owner, lessee, occupant or person having control of the property;
 - b. Mailing the notice to the last known address of the owner, lessee, occupant or person having control of the property by certified mail; or
 - c. Posting the notice on the vehicle or on the property on which the abandoned, wrecked, dismantled, rusted, junked or inoperable motor vehicle is found.
2. Service of notice by any of the methods listed in this division shall be due notice within the meaning of this section; provided, however, that, no owner out of possession shall be liable to the penalty set forth in § 13-401 unless there is personal service or the notice was mailed by certified mail. If the person upon whom the notice to remove was served fails either to remove the vehicle from the property within five days of service of the notice or to appeal to the Administrative Hearing Office within the time provided to appeal, the city may remedy the condition and abate the nuisance by taking into custody the abandoned or inoperable vehicle.

(B) Appeal of order to remove. The owner, lessee, occupant or person having control of the property who is aggrieved by the determination of the order of the City Manager, or his or designee, may appeal to the Administrative Hearing Office by appearing before the Administrative Hearing Officer at the time and place stated in the notice. The Administrative Hearing Officer shall hear and determine the appeal in accordance with § 12-1101 of the Crossville Municipal Code. A person who is aggrieved by a final decision is entitled to judicial review pursuant to T.C.A. § 6-54-1017, which shall be the only available method of judicial review. If the owner or other person described shall fail to remedy the conditions within the time prescribed, the city may remedy the condition and abate the nuisance by taking into custody the abandoned or inoperable vehicle.

SECTION IV. This ordinance shall take effect upon and after its final date of passage, the public welfare requiring it.

Mayor

Councilmember

Councilmember

Councilmember

Councilmember

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

Passed 1st Reading: _____
Passed 2nd Reading: _____
Passed 3rd Reading: _____