

ORDINANCE NO. 2017-01

April 5, 2017

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF MENLO, IOWA BY **REPEALING TITLE III COMMUNITY PROTECTION, CHAPTER 8 JUNK AND ABANDONED VEHICLES, SECTION 1 PURPOSE; SECTION 4 NOTIFICATION OF OWNERS AND LIENHOLDERS; SECTION 5 IMPOUNDMENT FEES AND BOND; AND SECTION 9 NOTICE TO ABATE, AND READOPTION PF THE SAME AS REVISED FOR THE PURPOSE OF CORRECTING ERRORS IN CITATIONS TO THE CITY CODE AND IOWA CODE.**

BE IT ENACTED by the City Council of the City of Menlo, Iowa that:

SECTION 1: SECTION MODIFIED The Code of Ordinances of the City of Menlo, Iowa shall be and the same is hereby AMENDED BY REPEALING Section 1 of TITLE III COMMUNITY PROTECTION, CHAPTER 8 JUNK AND ABANDONED VEHICLES, and re-enacting the same to state as follows:

3-8-1 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 from removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 364.1)

SECTION 2: SECTION MODIFIED The Code of Ordinances of the City of Menlo, Iowa shall be and the same is hereby AMENDED BY REPEALING Section 4 of TITLE III COMMUNITY PROTECTION, CHAPTER 8 JUNK AND ABANDONED VEHICLES, and re-enacting the same to state as follows:

3-8-4 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 Mayor or City Clerk if the Mayor is unavailable, 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 claimant to the vehicle or to personal property found in the vehicle, addressed to their last 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, 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 ten 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 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 Mayor 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 3-8-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-8-5.

(Code of Iowa, Sec. 321.89(3)(a))

2. The owner, lienholders or any person receiving notice may, by written request received by the Mayor prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(a))

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 ten day reclaiming period.

(Code of Iowa, Sec. 321.89(3)(a))

SECTION 3: SECTION MODIFIED The Code of Ordinances of the City of Menlo, Iowa shall be and the same is hereby AMENDED BY REPEALING Section 5 of TITLE III COMMUNITY PROTECTION, CHAPTER 8 JUNK AND ABANDONED VEHICLES, and re-enacting the same to state as follows:

3-8-5 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 Mayor or City Clerk if the Mayor is unavailable, 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
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges

(Code of Iowa, Sec. 321.89(3)(a))

2. The amount of the charges specified in a-e 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 3-8-4 (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 a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-8-5(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.

SECTION 4: SECTION MODIFIED The Code of Ordinances of the City of Menlo, Iowa shall be and the same is hereby AMENDED BY REPEALING Section 9 of TITLE III COMMUNITY PROTECTION, CHAPTER 8 JUNK AND ABANDONED VEHICLES, and re-enacting the same to state as follows:

3-8-9 NOTICE TO ABATE.

1. Whenever the Mayor or City Clerk if the Mayor is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-8-8, the Mayor or City Clerk 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.

SECTION 5: REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6: 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 7: WHEN EFFECTIVE. This ordinance shall be effective from and after its final passage, approval, and publication as provided by law.

Motion by Culver and second by Miller to suspend the 1st and 2nd readings of Ordinance 2017-01 and to place Ordinance 2017-01 on its final reading. Roll call vote: Aye – Behnken, Culver, Jacobson, Korradi, Miller. Naye - None

Passed, approved and adopted by the City Council this 5th day of April 2017.

By: MICHAEL CLARKE, MAYOR

Attest by: SHELLY QUAM, CITY CLERK

ATTEST:

I, Shelly Quam, City Clerk of the City of Menlo, hereby certify that the above and foregoing is a true copy of Ordinance 2017-01 passed by the City Council of said City at the meeting held on April 5, 2017 and published as provided by law in Stuart Herald on June 7, 2017.

Shelly Quam, City Clerk