COMPARED VERSION
COMMITTEE SUBSTITUTE, AS AMENDED TO COMMITTEE SUBSTITUTE

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 250367, AS AMENDED

Amending Chapter 76, Code of Ordinances, by repealing Section 76-435, and by repealing Sections 76-281, 76-284, 76-341, 76-402, 76-422, 76-423, 76-426, and 76-427 and enacting lieu thereof new sections of like number and subject matter related to vehicle towing practices; directing the City Manager to develop a Towed Vehicle Owner Bill of Rights, identify online platform for reporting tows Citywide, coordinate with county partners to address predatory towing, receive 311 complaints related to predatory towing, and report back to Council in 30 days.

WHEREAS, predatory towing practices, including unlawfully towing vehicles and charging exorbitant fees, are harmful to Kansas Citians and can have a destabilizing effect on victims' finances and transportation; and

WHEREAS, 29% of the total population in Kansas City live in tracts designated Equity Transportation Communities by the Department of Transportation, but 53% of completed tows originate from Equity Transportation Communities; and

WHEREAS, this significantly higher rate of towing in Equity Transportation Communities suggests that some of the City's most vulnerable communities bare a disproportionate burden of predatory towing practices; and

WHEREAS, the City seeks to effectively improve enforcement against predatory practices by improving coordination between City departments, the Kansas City Police Department, and Jackson County; and

WHEREAS, the City is also committed to holding predatory tow operators accountable by increasing penalties for such operators in violation of City Code; and

WHEREAS, the City Council finds it is necessary to take such measures to protect Kansas Citian from predatory towing practices; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 76 of the Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 76-435, Penalties.

Section 2. That Chapter 76 of the Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 76-281, Definitions, Section 76-284, Penalty for violation of article, Section 76-294, Informal disposition, Section 76-341, Vehicles generally, Section 76-402, Generally, Section 76-422, Towing and storage fees and regulations, and Section 76-423, Notice of tow, 76-426, Return of vehicle and receipt, and 76-427, Tow service business requirements, and enacting in lieu thereof new sections of like name, number, and subject matter, to read as follows:

Sec. 76-281. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned property means any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this article, whether or not operational. For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five days of the accident, the agency requesting the tow shall be required to write an abandoned property report or crime inquiry and inspection report.

Boot means any wheel immobilization device that is attached to a vehicle that prevents the vehicle from being driven.

City means the city of Kansas City, Missouri.

City tow means all tows ordered through the City dispatch system by the Kansas City, Missouri Police Department, City or any other regulatory agency.

Cruising means operating a tow vehicle on a public highway at a slow rate of speed or parked in a parking area near an accident scene for the purpose of soliciting business along said highway or accident scene.

Director means the director of neighborhood services or the director's designee.

Department means the neighborhood services department.

Emergent tow means a law enforcement directed movement of any vehicle by a tow vehicle in order to regulate, facilitate and provide for the proper and orderly flow of traffic upon the streets, alleys, road, highways and thoroughfares within the city when there is an emergency situation as defined in Section 76-282.

Highway means any highway, road, street or alley open to the use of the public for the purpose of vehicular traffic.

Motor vehicle or vehicle means:

(1) Any motor vehicle designed primarily for the transportation of no more than ten persons, including the operator, and having a registered gross weight of 7,500 pounds or less; and

(2) Any motor vehicle designed primarily for the transportation of property, such as pick-up trucks and panel trucks, and having a registered gross weight of 7,500 pounds or less.

Operator's certificate or operator's certificate holder means evidence of authorization to operate tow vehicles in the services authorized under this article.

Operating, operation of or to operate a tow vehicle means all acts and functions incident to the movement of a tow vehicle from place to place; as well as all acts involved in the undertaking of a tow, whether for hire or for personal or business use by the owner or individuals under the control of the owner of the tow vehicle; and the conducting of a business engaged in the operation of a tow vehicle.

Owner means any person who holds legal title to a vehicle or one who has the legal right to the control and possession thereof.

Person means any individual, assumed name entity, partnership, joint venture, association, corporation or other legal entity.

Registration holder or registrant number means the owner of a tow vehicle registered under this chapter.

Registration number means a permanent number assigned by the director to a specific tow vehicle.

Retrieval fee means the compensation payable for the retrieval of a towed motor vehicle, during the periods of time prescribed in section 76-422, from a facility owned, operated, leased or used by a tow vehicle service, whether that facility is located within or beyond the city.

Storage fee means the compensation payable for the storage of a towed motor vehicle that has been stored at or in a facility owned, operated, leased or used by a tow vehicle service, whether that facility is located within or beyond the city.

Tow, tows or towing means the act of removing, by tow vehicle, a motor vehicle from public or privately-owned property. The mere preparation of a motor vehicle for removal by a tow vehicle or the attachment of a motor vehicle to a tow vehicle, or both, does not, for purposes of this chapter, constitute a "tow" or "towing."

Tow service business means any person, firm, association, corporation, partnership or organization engaged in the operation of one or more tow vehicles for a fee or as part of an auto salvage, auto repair or junk business.

Tow vehicle means any motor vehicle which is designed or equipped to or which does in fact provide any towing service, including but not limited to towing, pushing or car starting, for which a fee is charged or as part of an auto salvage, auto repair or junk business; except that vehicle transports or multicar hauling vehicles shall not be construed to mean tow vehicles for the purpose of this article; provided, however, rollback tow vehicles capable of towing two vehicles are not excluded from the definition of tow vehicles.

Tow vehicle operator means any individual who, as an employee of or otherwise for a tow service business, tows motor vehicles.

Towing fee means the compensation payable for the towing of a motor vehicle.

Vehicle immobilization means the impounding, incapacitating or immobilizing of any vehicle, whether motorized or not, without the permission of the owner or agent of the owner of the vehicle by the use of any device, wheel clamp, object barrel, boot, mechanism or method, either attached to the vehicle or not, by the owner or agent of the property upon which the vehicle is parked, that does not allow the owner of the vehicle or authorized agent to freely move the vehicle from the place where it is immobilized.

Vehicle immobilization service means any person, firm, association, corporation, partnership or organization engaged in the operation of vehicle immobilization for a fee.

Sec. 76-~~-~~284. Penalty for violation of article.

(a) *Penalty for first violation.* Any person who is found to have violated any provisions of this article, or who neglects or fails to comply with such provisions, shall be guilty of an ordinance violation, and upon conviction shall be fined not less than $~~500~~250.00 and not more than $~~1000~~500.00, or punished by imprisonment of not more than 30 days, or punished by both such fine and imprisonment.

(b) *Penalties for subsequent violations*. Any person who is found to have violated any provisions of this article, or who neglects or fails to compy with such provisions, shall be guilty of an ordinance violation, and when such violation occurs within twelve months of such person's prior conviction of any ordinance violation under this article, upon conviction shall be punished accordingly:

(1) Second violation. For any person guilty of a second ordinance violation under this article within a twelve month period, upon conviction of such second violation shall be fined not less than $500.00 and not more than $750.00, or punished by imprisonment of not more than 90 days, or punished by both such fine and imprisonment.

(2) Third and subsequent violations. For any person guilty of a third ordinance violation, or any additional violations subsequent to a third violation, under this article within a twelve month period, upon conviction of such subsequent violation shall be fined not less than $750.00 and not more than $1,000.00, or punished by imprisonment of not more than 180 days, or punished by both such fine and imprisonment.

Sec. 76-341. Vehicles generally.

It shall be unlawful for any person to operate or allow or cause to be operated any tow vehicle, either for a fee or as a part of any auto salvage, auto repair or junk business within the

city, unless said vehicle has a current, approved department of transportation (DOT) inspection certificate and unless the corresponding wrecker or tow service business has obtained the required permit(s) or license(s) from the county or counties where the business is physically located and in which it conducts more than fifty percent of its wrecker or tow service business activities.

Sec. 76-402. Generally.

(a) *Suspension*. The director may suspend any registration number or operator's certificate issued under this article if the director holds a hearing in accordance with section 76-403 and finds that:

(1) A holder of a registration number or an operator's certificate issued under this article has violated any provision of this code or any regulation properly issued by the director;

(2) A registrant under this article has employed or permitted an agent or employee to hire or employ or contract with, as a tow vehicle operator, any person not holding a valid operators' certificate issued under the provisions of this code, and has permitted such person to report for or make a city tow within the city;

(3) Someone other than the holder has made use of a registration number or certificate that has been granted pursuant to the provisions of this code;

(4) The holder of a registration number or an operator's certificate issued under this article has knowingly charged, for services provided in accordance with this tow vehicles code, a fare or charge in excess of that authorized; then the director may suspend the certificate or registration number issued under this article for a period not to exceed 90 days;

(5) A holder of a registration number or an operator's certificate has an active bench warrant for an unresolved ordinance violation of this chapter.

(b) *Revocation*.

(1) The director shall revoke any registration number or certificate if it is found, following a hearing held in accordance with section 76-403, that:

a. A registrant or the holder of an operator's certificate issued under this article has committed three or more acts constituting grounds for suspension in accordance with subsections (a)(1) through (5) of this section within a 12-month period or has operated or allowed another to operate under their suspended registration number or certificate;

b. An operator's certificate or one or more registration numbers issued there under were obtained by misrepresentation or fraud, including knowingly

providing false information concerning matters covered in section 76-312 on the application therefor; or

c. The holder of an operator's certificate issued under this article has been convicted of committing a felony or any crime against a citizen involving a vehicle operated pursuant to this code or any crime involving moral turpitude.

(2) Following a hearing held in accordance with section 76-403, the director may revoke any registration number under which a number holder has discontinued their operations unless such registrant has surrendered the registration number within ten days after such discontinuance.

(c) *Issuance of new registration number after suspension or revocation*. No new registration number will be issued to a registrant while any of their registration numbers are under suspension. No new registration number may be issued to a registrant for a 12-month period following revocation of one or more of their registration numbers.

Sec. 76-422. Towing and storage fees and regulations.

(a) The maximum fees that may be charged for the towing of motor vehicles and for the storage and, when specifically authorized by this section, the retrieval of such towed vehicles shall be established by the director annually and shall not exceed the city tow and storage fees. The director may adjust the fees based upon the Consumer Price Index for all Urban Consumer (CPIaU).

(b) It shall be an ordinance violation for any person to charge a towing fee, storage fee or retrieval fee that exceeds the fees established by subsection (a).

(c) If the owner of a motor vehicle is present and capable of removing the vehicle before it is removed by a tow vehicle operator, the vehicle shall not be towed; provided, that in such an event, the owner of the vehicle shall be liable for a reasonable fee, not to exceed one-half of the regular towing fee, in lieu of towing, payable to the tow vehicle operator. This fee shall only apply if the tow vehicle is attached to the offending vehicle and the offending vehicle has been lifted so at least two of the tires are off the ground and still on the premises.

(d) Any owner or lessee in lawful possession of real property that requests a towing company to tow a motor vehicle without authorization from a law enforcement officer shall at that time complete an abandoned property report. The report shall be in the form designed, printed, and distributed by the State of Missouri Director of Revenue, as more fully described in RSMo § 304.157.5.

(e) It shall be an ordinance violation for any owner or lessee of real property to knowingly authorize the removal of a motor vehicle in violation of this section.

(f) Except for the removal of motor vehicles authorized by a law enforcement agency, a towing company shall not remove or commence the removal of motor vehicles from private property without first obtaining written authorization from the property owner or lessee in lawful possession or the property manager or security manager of the real property, who must be present at the time of removal or commencement of the removal. A property manager or security manager must be a full-time employee of a business entity. All written authorizations shall be maintained for at least three years by the towing company. General authorization to remove or commence removal of motor vehicles at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of motor vehicles unlawfully parked within 15 feet of a fire hydrant or in a fire lane designated by a fire department or the state fire marshal as required by RSMo. § 304.158.

(g) Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property.

(h) No towing company, impound facility, or their employees shall disable, block, tamper with, or otherwise interfere with the GPS, video, or other electronic tracking or recording devices of any towed or impounded vehicle.

(i) Tow company employees shall not require or retain possession of a customer's title, keys, or other personal property as a condition of inspecting a vehicle that has been towed without the consent of the owner, retrieving personal items from such vehicle, or otherwise accessing the vehicle, and must immediately return any such items upon request.

(j) All towing companies operating within the City or maintaining impound lots within the City shall comply with all applicable city, state, and federal laws, including but not limited to licensing requirements, completion of required tow authorization forms, and possession of valid USDOT registration where applicable.

Sec. 76-423. Notice of tow; procedure for removal of vehicles left unattended or improperly parked on private property of another.

(a) Prior to towing any motor vehicle, the tow service business or operator shall contact the city's police department and provide the following information:

(1) The name of the tow service business and operator;

(2) A description of the vehicle to be towed, including its year, make, model, vehicle identification number and license plate number;

(3) The date and time of the tow;

(4) The reason for effectuating the vehicle tow;

(5) The address of the location from which the vehicle is being towed; and

(6) The name and address of the facility to which the vehicle is to be delivered and stored, and from which the vehicle may be retrieved.

(7) If the vehicle to be towed is reported as stolen the tow company shall not remove the vehicle, and provide the location and description to the Police.

(b) Notwithstanding Section 76-422, If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, a Kansas City Police Department officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) the abandoned property is left unattended for more than forty-eight hours; or

(2) in the judgement of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

(c) The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee, or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:

(1) there is displayed, in plain view at all entrances to the property, signage in accordance with Section 76-429;

(2) the abandoned property is left unattended on owner-occupied residential property with four residential units or less, and the owner, lessee, or agent of the real property in lawful possession has notified the appropriate law enforcement agency, and ten hours have elapsed since the notification; or

(3) the abandoned property is left unattended on private property, and the owner, lessee, or agent in lawful possession of the real property has notified the appropriate law enforcement agency, and ninety-six hours have elapsed since that notification.

Sec. 76-426. Return of vehicle and receipt.

(a) Upon payment of all towing, storage and, if applicable, retrieval fees, the tow service business or storage facility operator, as the case may be, shall immediately give possession of the vehicle to the owner or custodian, along with a written receipt that contains the following information:

(1) The name and address of the tow service business;

(2) The address from which the vehicle was towed;

(3) The date and time that the vehicle was towed;

(4) The date and time that the vehicle entered the facility at which it was placed for storage;

(5) An itemized list of all the fees that are being charged;

(6) A signature of an authorized representative or property owner who requested the tow; and

(7) A statement on the receipt that reads as follows: Please refer to Sections 76-425 and 76-426 of the Code of Ordinances of the City of Kansas City, Missouri for more information on payment options and receipt requirements regarding vehicle tows.

The receipt must be signed by the vehicle owner or custodian on the date that payment is made and a copy of the signed receipt must be given to the vehicle owner or custodian on the day the receipt is signed. Receipts shall be kept by the tow service business or storage facility operator for five years.

(b) No towing company, impound facility, or their agents shall impose any requirements, besides payment of all legally permissible fees or charges, for the release of a vehicle beyond verifying ownership or lawful possession. A vehicle shall be released upon presentation of reasonably reliable documentation demonstrating ownership or right to possession, including but not limited to a title, bill of sale, valid temporary permit, lease agreement, rental agreement, or insurance documentation, regardless of whether the vehicle has been formally registered with the Department of Revenue, whether more than 30 days have passed since the date of purchase, or whether proof of insurance is presented. Proof of current registration shall not be required for release. Proof of insurance, if requested, must be accepted in electronic or digital form without requiring a paper copy. Towing companies and impound facilities are prohibited from creating any additional administrative barriers, requirements, or delays that are not strictly necessary to confirm ownership or lawful possession of the vehicle.

(c) Towing companies and impound facilities shall not require customers to make an appointment to retrieve a vehicle and must release vehicles during normal operating hours upon proper presentation of documentation. A customer's demeanor or communication, whether over the phone or in person, shall not be grounds to refuse release of a vehicle or to impose additional conditions, delays, or storage charges.

(d) For purposes of this section, "custodian" shall include the registered owner of the vehicle or any person authorized by the registered owner to retrieve the vehicle, as reasonably determined by the police department or based on available documentation presented at the time of release request including a rental or lease agreement, bill of sale, etc. Authorization may be established by presenting a rental or lease agreement, bill of sale, insurance documentation, or written or electronic communication from the owner, accompanied by a copy or image of the owner's government-issued identification. The custodian may also include an employee or agent of a business entity listed as the registered owner, upon presentation of reasonable proof of employment or agency and authorization from the business entity. Personal appearance by the owner shall not be required if authorization and identification can be adequately verified electronically or remotely.

Sec. 76-427. Tow service business requirements.

A tow service business operating a tow vehicle pursuant to the authority granted in this article shall:

(1) Have and occupy a verifiable business address; and

(2) Have a fenced, secure, and lighted storage lot or an enclosed, secure building for the storage of motor vehicles; and

(3) Be available 24 hours a day, seven days a week. Availability shall mean that an employee of the towing company or an answering service answered by a person is able to respond to a tow request; and

(4) Maintain a valid insurance policy issued by an insurer authorized to do business in this state, or a bond or other acceptable surety providing coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least $750,000.00 per incident; and

(5) Provide workers' compensation insurance for all employees of the towing company if required by RSMo ch. 287; and

(6) Maintain current motor vehicle registrations on all tow vehicles currently operated within the tow service business fleet.

(7) Maintain the business name, address and phone number on all tow vehicles operated within the tow service business fleet.

(8) All towing company employees, agents, and representatives operating within the City shall cooperate fully with law enforcement officers by promptly providing their true full name, valid government-issued identification, employer and position, and producing for inspection any documentation authorizing the tow or impoundment of a vehicle, including but not limited to a completed Form 4669 or equivalent authorization including the documentation required by Section 76-290.

Section ~~2~~3. That the City Manager is hereby directed to create a Towed Vehicle Owner Bill of Rights, along with a public education campaign to distribute the Towed Vehicle Owner Bill of Rights, raise awareness among the public regarding predatory towing practices and requirements of lawful towing practices among tow operators, and provide information on how to report unlawful towing practices, including through the City's 311 service. The City Manager shall coordinate with the Office of Language Access to ensure that all residents may access the Towed Vehicle Owner Bill of Rights, which shall be made available in both digital and physical form.

Section ~~3~~4. That the City Manager is directed to coordinate with KCPD, regulated industries, public works, and the City Prosector's Office to implement the use of an online platform for reporting of all tows made in the City of Kansas City, to ensure the program allows efficient sharing of information with all relevant city stakeholders.

Section ~~4~~5. That the City Manager is directed to engage and coordinate with relevant county partners to improve enforcement and curb predatory towing practices.

Section ~~5~~6. That the City Manager is directed to receive 311 complaints related to predatory towing.

Section ~~6~~7. That the City Manager is directed to provide a report back to the Finance, Governance, and Public Safety Committee regarding the implementation of Sections 2-5 of this ordinance and any corresponding recommended code changes within 30 days.

Approved as to form:

~~Dustin E. Johnson~~
Andrew Bonkowski
Assistant City Attorney