

AN ORDINANCE AMENDING CHAPTER 8-321 OF THE ST. PETERSBURG CITY CODE; CHANGING THE TITLE; EXPANDING THE PROHIBITION OF ITEMS STORED OUTDOORS ON PRIVATE AND PUBLIC PROPERTY; CHANGING THE NOTICE REQUIREMENTS FOR REMOVAL OF ITEMS; PROVIDING FOR THE DISPOSAL OF REMOVED ITEMS; MAKING MINOR TECHNICAL CORRECTIONS; CORRECTING AND CLARIFYING INCONSISTENT OR AMBIGUOUS TERMINOLOGY; DESIGNATING CODE ENFORCEMENT OFFICERS TO ENSURE COMPLIANCE WITH F.S. 705 CONCERNING LOST OR ABANDONED PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

SECTION 1. Section 8-321 of the St. Petersburg City Code is hereby amended to read as follows:

Sec. 8-321. ~~Outdoor Storage.~~

(a) It shall be unlawful for any person to ~~store~~ on any private or public property, or the owner or occupant of any property to ~~store~~ or allow to be ~~stored~~ on private or public property owned or occupied by such owner or occupant, outside of a legally constructed fully enclosed structure;

(1) any abandoned, disabled or inoperative motor vehicle or parts thereof, or

(2) any abandoned, inoperative, disabled or unattended freezer, refrigerator, parts thereof, or

(3) any junk, ~~rubbish, or garbage, or~~

(4) ~~any materials, equipment, furnishings, furniture, appliances, construction materials or any items which are not designed to be used outdoors, except as specifically allowed by Chapter 16, or~~

(5) any item of personal property including clothing or bedding.

(b) (1) ~~If the owner or occupant of any property fails to remove any item, as described in subsection (a), which is unlawfully stored on private property within ten days after having received written notice, as described in subsection (f), which requires such removal, the City may cause the removal of such unlawfully stored items. The POD may dispose of the items after thirty days after removal from the private property unless the owner or occupant of the private property retrieves the items after presentation to the City of adequate proof of ownership thereof and payment to the City of reasonable charges for storage and removal thereof. The removal and disposal of such items may be accomplished either by the POD or by private contract.~~

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(2) Should a notice be issued for a violation having occurred pursuant to this subsection (b), any subsequent violation of this subsection on the same real property by the same owner or occupant of the real property on which the violation previously occurred, occurring within 180 calendar days, shall result in a reduction of time for removal of the items from ten days to twenty-four hours and the POD may cause the removal of such unlawfully stored items.

(c) (1) If an individual (or individuals) fails to remove any item, as described in subsection (a), which is unlawfully stored on public property within thirty six hours after having received written notice, as described in subsection (f), which requires such removal, the City may cause the removal of such unlawfully stored items.

(2) In the event the POD determines the unlawfully stored items located on public property are a threat to the health, safety, or welfare of the public, the POD may immediately remove such unlawfully stored items. A threat to the health, safety, or welfare of the public shall include, but not be limited to, a fire hazard, noxious odors, or an infestation of vermin, including rodents, lice, roaches and fleas, which the public would be exposed to due to the unlawful storage. If items are removed without prior notice, a written notice shall be posted at the location which identifies the location where the items have been removed to.

(3) Moving the unlawfully stored items to another location on public property shall not be considered to be removing the item from public property.

(4) If an item, as described in subsection (a), is unlawfully stored on public property (not including the right of way) which public property is posted with a sign stating that unattended items may be removed immediately, then no additional notice shall be required and the item may be removed immediately.

(5) The POD may dispose of the items after thirty days after removal from the private property unless the owner or occupant of the private property retrieves the items after presentation to the City of adequate proof of ownership thereof and payment to the City of reasonable charges for storage and removal thereof. The removal and disposal of such items may be accomplished either by the POD or by private contract.

(d) Notwithstanding the foregoing, the POD may immediately remove any unattended, abandoned, disabled or inoperative refrigerator or freezer which is located outside of a legally constructed fully enclosed structure, provided, however, the POD shall serve notice, as described in subsection (f), of such removal upon the owner or occupant of the property from which the refrigerator or freezer was removed and the owner or occupant shall have 30 days from the date of service of such notice within which to retrieve such refrigerator or freezer upon presentation to the City of adequate proof of ownership thereof and payment to the City of reasonable charges for storage and removal thereof. If such, refrigerator or freezer has not been retrieved within 30 days from the date of service of such notice, the POD may then dispose of such refrigerator or freezer.

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These provisions authorizing immediate removal are deemed necessary due to the grave danger to the lives of children which City Council finds is created by unattended, abandoned or disabled refrigerators and freezers.

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(e) (1) In the event the owner or occupant of any property upon which is located an inoperative motor vehicle outside of a fully enclosed legally constructed structure shall fail to remove such inoperative vehicle within ten days after having been served with written notice, as described in subsection (f), requiring such removal, the POD or a private contractor may remove such inoperative vehicle and shall store same for a period of 30 days. During such 30-day period, the owner may retrieve such vehicle after paying to the POD the reasonable charges for the removal and storage of such inoperative vehicle and presentation to the POD of adequate proof of ownership of the vehicle. After such 30-day period, the POD may dispose of such inoperative vehicle.

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(2) At locations where a lawful use, permitted by Chapter 16, exists involving outdoor display or sales of vehicles, the lack of current license tags or inspection decals shall not make motor vehicles inoperative for purposes of this section.

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(f) (1) The written notice required by this section shall be deemed to have been served if:

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- a. A copy thereof is personally delivered to the party to be notified; or
- b. A copy is left at the party's usual place of abode with some person of the family above 15 years of age and informing such person of the contents thereof; or
- c. A copy is mailed by either registered or certified United States mail with return receipt requested; or
- d. If the name of such party or the place of residence or post office address cannot be ascertained after diligent search and inquiry or in the event a notice sent by either registered or certified mail shall be returned undelivered, such notice is posted in a conspicuous place on the property upon which the items described in this section are or were located.

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(e) Should a violation notice be issued for a violation having occurred pursuant to subsection (c) of this section, any subsequent violation of the same section on the same real property by the same owner of the real property on which the violation previously occurred, occurring within 180 calendar days, shall result in a reduction of time for compliance from ten consecutive days to 24 hours and the City may immediately proceed with removal and/or other appropriate action as provided within this Code. If any portion of this section is held invalid or unconstitutional, then such portion shall be deemed separate and distinct and such holding shall not affect the validity of the remaining portion thereof. ¶

(2) The notice required by this section shall contain a complete description of the items to be removed (such description may refer to an attached photograph), the location of the property, the section of the Code in violation, the location to which the items will be removed, and the date and time by which the items must be removed.

(f) At locations where a lawful use, permitted by chapter 29, exists involving outdoor display or sales of vehicles, the lack of current license tags or inspection decals shall not make motor vehicl ... [1]

(3) For notices related to removal of items on private property by the POD pursuant to subsection (b) or vehicles pursuant to subsection (e), the notice must contain notification that a hearing may be held at the owner's or occupant's request. The hearing may be requested by the owner or occupant by notice in writing to the POD at the address prescribed on the notice. The notice that a hearing is requested must be received by the POD prior to the tenth day from the date of service of the written notice provided for in this section. A hearing, if requested, must be held prior to the removal of any item and shall be heard by a subcommittee of three of the Code Enforcement Board of the City.

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The owner or occupant, the City and all interested parties shall have the right to present evidence and appear before the subcommittee either in person or by counsel. The subcommittee shall decide based upon the evidence presented and the applicable ordinances and laws whether or not the violation specified is sustained by the facts and shall rule expeditiously. The subcommittee shall not be bound by the strict rules of evidence. If a hearing is requested, the City shall not cause the removal of the items or vehicle until the subcommittee has sustained the violation and five days have elapsed from the date that the subcommittee's decision is served upon the owner or occupant which service shall be served as provided in subsection (f).

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Deleted: The provisions of this subsection shall not apply to the removal of any unattended, abandoned, disabled, inoperative or unattended refrigerator or freezer.

(h) For the purposes of this section, the terms 'store' or 'stored' when referring to an item or items on public or private property shall be broadly interpreted to include any action to place, store, park, display, locate, or set upon an item or items. Also, for the purposes of this section, the term "occupant" shall mean any person in apparent control or possession of the property upon which an inoperative motor vehicle or item(s) is located. Also, for the purposes of this section, 'reasonable charges' may take into consideration the owner's ability to pay the charges.

(i) Abandoned property is regulated and may be removed pursuant to Chapter 705.101, et seq, Florida Statutes. In addition to law enforcement officers, the Code Enforcement Inspectors are hereby designated, pursuant to F.S. 705.1015, to administer the provisions of Chapter 705 F.S. pertaining to lost or abandoned property.

SECTION 2. Words that are in margin balloons shall be deleted from the existing City Code and language which is underlined shall be added to the existing City Code.

SECTION 3. The provisions of this ordinance shall be deemed to be severable. If any portion of this ordinance is deemed unconstitutional it shall not affect the constitutionality of any other portion of this ordinance.

SECTION 4. In the event this Ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the Ordinance, in which case the Ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this Ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

Approved as to form and content:

City Attorney (designee)

(e) Should a violation notice be issued for a violation having occurred pursuant to subsection (c) of this section, any subsequent violation of the same section on the same real property by the same owner of the real property on which the violation previously occurred, occurring within 180 calendar days, shall result in a reduction of time for compliance from ten consecutive days to 24 hours and the City may immediately proceed with removal and/or other appropriate action as provided within this Code. If any portion of this section is held invalid or unconstitutional, then such portion shall be deemed separate and distinct and such holding shall not affect the validity of the remaining portion thereof.

(f) At locations where a lawful use, permitted by chapter 29, exists involving outdoor display or sales of vehicles, the lack of current license tags or inspection decals shall not make motor vehicles inoperative for purposes of this section. This section shall not apply to outdoor storage of vehicles in connection with a lawful use, lawfully permitting outdoor storage, as provided by chapter 29.

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which hereby constitutes a Preseizure Review Board for purposes of this section