

CITY OF MIDDLETOWN
ORDINANCE 05-09-2024-A, SERIES 2024
AN ORDINANCE RELATING TO RECKLESS DRIVING AND SPEED CONTEST
EXHIBITIONS IN THE CITY OF MIDDLETOWN

WHEREAS, the City of Middletown Police Department has observed the use of the City's streets for reckless driving and speed contest exhibitions, which activities are by their nature highly dangerous to the drivers, spectators, and the general public,

WHEREAS, due to the potential for loss of life and damage to property from reckless driving and speed contest exhibitions, the seizure of the vehicles used in these events is a reasonable and effective response and penalty,

WHEREAS, the City of Middletown Commission finds that there is a need for the city to approve an ordinance prohibiting such dangerous activities and base the ordinance upon the ordinance recently approved by the Metro Louisville, to provide for uniform enforcement across city boundaries,

NOW THEREFORE, be it ordained by the City of Middletown

SECTION 1: The following ordinance is adopted by the City of Middletown Commission:

(A) DEFINITIONS. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BURNOUT. A maneuver performed while operating a vehicle whereby the vehicle is kept stationary, or is in motion, while the wheels are spun, resulting in friction which causes the vehicle's tires to heat up and emit smoke.

DOUGHNUT. A maneuver performed while operating a vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion which may cause a circular skid-mark pattern of rubber on the driving surface or the tires to heat up and emit smoke from friction, or both.

DRIFTING. A maneuver performed while operating a motor vehicle whereby the vehicle is steered so that it makes a controlled skid sideways through a turn with the front wheels pointed in a direction opposite to that of the turn.

PUBLIC WAY. The entire width between property lines of every way, dedicated passway, road, or street set aside for public travel, except bridle paths and foot paths.

RECKLESS DRIVING EXHIBITION. To perform or engage in any burnouts, doughnuts, drifting, wheelies, or other dangerous vehicle activity on a street.

STOPPING. To stop a vehicle longer than is actually necessary to receive or discharge passengers.

STREET. Every public road, interstate highway, avenue, alley, or boulevard, bridge, viaduct or trestle and the approaches to them and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

VEHICLE or MOTOR VEHICLE. Every device in, on or by which any person or property is or may be transported or drawn on any street except devices moved by human power or used exclusively on stationary rails or tracks, which vehicle does not travel more than five miles from the boundaries of Jefferson County.

VEHICLE SPEED CONTEST. A vehicle race against another vehicle, a clock or other timing device.

WHEELIE. A maneuver performed while operating a vehicle whereby a vehicle is ridden for a distance with the front wheel or wheels raised off of the ground.

(B) VEHICLE SPEED CONTESTS AND RECKLESS DRIVING EXHIBITIONS PROHIBITED.

No vehicle shall be used in a vehicle speed contest or a reckless driving exhibition on any street within the City of Middletown.

(C) COORDINATING OR PROMOTING VEHICLE SPEED CONTESTS AND RECKLESS DRIVING EXHIBITIONS.

A person shall not coordinate through social media or otherwise, encourage persons to gather, or collect moneys at any location, for any such vehicle speed contest or reckless driving exhibition.

(D) OBSTRUCTION OF STREETS.

No vehicle shall be used in any manner to obstruct or act as a barricade or obstruction on any street in the City of Middletown for the purposes of facilitating, aiding, or abetting or otherwise as an incident to any vehicle speed contest or reckless driving exhibition.

(E) ENFORCEMENT.

The provisions of shall be enforced by any officer of the City of Middletown Police Department.

(F) ENFORCEMENT

(1) Impoundment at the scene. Any City of Middletown Police Officer shall be permitted to immediately seize and impound a vehicle for a violation of this chapter based on video surveillance, photographs, the official's personal observation and/or the sworn testimony by one or more eyewitnesses when the vehicle is located at the time of the violation or immediately thereafter. City of Middletown Police Department may impound a motor vehicle

used in a violation of the provisions of this ordinance, and is authorized to hold, release or dispose of the vehicle in accordance with this ordinance. The length of impoundment imposed may be decreased, (1) by the Middletown Police Department Executive Command Staff, or (2) by the Middletown Code Enforcement Board during an appeal under this chapter. Any release of any impounded vehicle under this section shall also meet the release requirements of this chapter. The Middletown Police Department Executive Command Staff should evaluate all relevant factors when considering a modification to the impoundment period, including but not limited to the following:

- (a) Whether any property was damaged, or persons harmed in connection with the offense; and
- (b) Whether this is a first offense or a subsequent offense.

(2) In addition to impoundment at the scene, any City of Middletown Police Officer shall be permitted to seize and impound a motor vehicle after a violation of this chapter, provided that the requirements of this subsection are met. Before any seizure or impoundment under this subsection, the authorized official shall send to the owner of record of the vehicle to be seized and impounded, either by first class mail or by personal service to the address of the owner of record as indicated in state registration records, a notice of intent to seize and impound the vehicle that includes: (i) a statement that City of Middletown has evidence sufficient to establish probable cause that an operator of the vehicle violated this chapter and the nature of such evidence; (ii) a copy of the police report that contains the source of the evidence for the violation; (iii) a copy of this chapter; (iv) the date, approximate time and approximate location of the alleged violation; (v) a detailed description of the vehicle, including any identifying information; and (vi) notice of the owner's opportunity to contest eligibility for impoundment. A copy of the notice shall be forwarded to the Middletown Chief of Police. A notice is presumed delivered upon being deposited with the United States Postal Service with proper postage affixed.

(G) APPEALS

(1) An owner of record who has had a vehicle impounded at the scene, or who receives a notice under Section (F)(2) for the impoundment of a vehicle, may contest eligibility for impoundment by written request delivered to the Middletown Chief of Police, postmarked within 14 days after the delivery of the notice. The hearing shall be conducted within ten business days of the date of the request, unless the owner or other person entitled to possession waives the limitation or City of Middletown shows good cause for such delay. City of Middletown shall retain possession of the vehicle pending the hearing, unless the owner or other person claiming right of possession posts a bond in an amount equal to the fines and fees accrued as of the date of the hearing request, or \$2,500, whichever is greater.

(2) The Middletown Chief of Police shall set a date for a hearing before the Middletown Code Enforcement Board on the eligibility of the vehicle for impoundment and shall notify the owner of the date, time, and place of the hearing.

- (a) At the hearing, City of Middletown's evidence of probable cause shall be considered prima facie correct. In order to disprove the motor vehicle's eligibility for impoundment, the owner of record must prove that: (i) at the time and date of the alleged violation as described in the notice, the described vehicle was not operated at the location of the alleged violation; or (ii) at the time and date of the alleged violation, the vehicle had been reported stolen. The vehicle owner shall be allowed the opportunity to present relevant evidence and question witnesses at the hearing. The written decision of the majority of the Middletown Code Enforcement Board shall be made in writing.
- (b) At the hearing, after consideration of the evidence, the Middletown Code Enforcement Board shall determine whether the impoundment was valid and reasonable by a vote of a majority of its members. Where it has not been established that the impoundment was justified, an order releasing the vehicle shall be entered. All fines and fees paid, or amounts posted as bond because of the impoundment of the vehicle shall be returned. Where it has been established that the impoundment was justified, the Middletown Chief of Police shall condition the release of the vehicle upon payment of a \$1,000.00 fine and all impoundment fees accruing thereto. If bond has been posted as security for release of the vehicle, said bond shall be forfeited to City of Middletown. Any fines or fees in excess of the amount of the bond posted shall be ordered to be paid by the owner of the vehicle to City of Middletown. The Middletown Chief of Police shall furnish the owner or person appearing on the owner's behalf with a copy of the order within five days of the hearing.
- (c) Any person who refuses or, except for good cause as determined by the Middletown Chief of Police, fails to appear at the time and place set for the hearing shall be deemed to have conceded on his or her and the owner's behalf the validity of the impoundment. In this event, the citation issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to Jefferson District Court.
- (d) Before the release of a vehicle pursuant to this chapter, the owner or other person entitled to possession must establish proof of ownership or right to possession. City of Middletown may require reasonable security, bond, or other assurances of indemnification from a person who is not the registered owner of the vehicle prior to releasing the vehicle.
- (e) An appeal from the Middletown Code Enforcement Board's determination that impoundment was justified may be made to the Civil Division of Jefferson District Court within 30 days of the determination. The appeal shall be initiated by the filing of a complaint and a copy of the Middletown Code Enforcement Board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on City of Middletown to establish that impoundment was justified. If the Court finds that the impoundment was justified, the owner shall be ordered to pay all fees and fines accruing as of the date of judgement. If the Court finds that the impoundment was not justified, City of

Middletown shall be ordered to release the vehicle, if applicable, and to return all fines and fees paid as a result of the impoundment. The judgment of the Jefferson District Court may be appealed to the Jefferson Circuit Court in accordance with the Rules of Civil Procedure.

- (f) If a hearing has not been requested pursuant to this chapter, and a vehicle impounded by City of Middletown has not been claimed, notice shall be mailed by certified mail to the registered owner, if known, and lien holders of record, if any, affording the parties the right within ten days from the date of notice to claim the vehicle or request a hearing pursuant to KRS 82.625. The notice shall state that, if no hearing is requested, the vehicle shall be deemed abandoned unless the charges thereon are paid within 45 days of the certified mailing of the notice.
- (g) Impoundment; escheat to City of Middletown if no response to notice.
 - (1) After 45 days from the date the impoundment period has concluded, if no appeal is filed, or if an appeal is filed, 45 days from the date of the conclusion of the impoundment period from a final order of the last presiding administrative body or court with jurisdiction, an impounded vehicle shall be deemed abandoned and the vehicle shall escheat to City of Middletown.
 - (2) If the vehicle is judged suitable for use, City of Middletown may obtain a certificate of registration and ownership from the Jefferson County Clerk, pursuant to KRS 186.020 and either use the vehicle for governmental purposes or sell the vehicle at public auction to the highest bidder. If the vehicle is not suitable for use it may be sold for its scrap or junk value.
 - (3) City of Middletown lien on vehicles impounded. City of Middletown shall possess a lien on all vehicles impounded pursuant to KRS 82.625 for all fines, penalties, and towing, handling, and storage charges and fees imposed thereon. Such a lien shall be superior to and have priority over all other liens thereupon.
 - (4) No effect on security interest in vehicle. Nothing in these provisions shall otherwise affect the rights or obligations between the owner of the vehicle and those persons who claim a security interest therein.
- (j) Release of impounded vehicle; impoundment fees paid. Any vehicle impounded under this section shall be held for a minimum of 72 hours. After 72 hours, City of Middletown may release the motor vehicle to the owner or other person entitled to possession, and City of Middletown shall condition the release of a vehicle impounded under this section, only upon:
 - (1) Payment of the citation amount in full or in part if by agreement; and
 - (2) Payment of all towing, handling, impoundment, and storage charges imposed.
 - (3) In addition to the release requirements imposed under this section, a vehicle may be released to the owner or other person entitled to possession, only upon proof of ownership or right to possession. City of Middletown may require reasonable security, bond, or other assurances of indemnification from a person who is not the registered owner of the vehicle prior to releasing the vehicle to such person.

- (4) The City of Middletown, along with its employees, officials or agents, shall not be held liable in any claim for loss or damages asserted by or action filed by the registered owner, lessee, or other person legally entitled to possession of the impounded vehicle when the vehicle has been properly impounded and/or disposed of pursuant to this chapter.


SECTION 2:

This Ordinance shall take effect upon its passage and approval by the Commission of the City of Middletown, Kentucky and by publication as required by law.

First Reading 5-9-2024
Second Reading 6-13-2024
Passed and approved this the 13th day of June, 2024.

ATTEST:


Tracy Dohn, Interim City Clerk


Mayor J. Byron Chapman

Those in Favor 5

Those Opposed 0