

**CITY OF ALBION
ORDINANCE #2021-11**

**AN ORDINANCE TO AMEND CHAPTER 82, ARTICLE VIII, TO AMEND
SECTION 82-276, CODE ADOPTED**

Purpose and Finding:

The City has, since 2003, adopted the Michigan Vehicle Code (MVC) by reference as permitted by the Home Rule City Act. Part of the MVC includes the ability of the municipality to tow abandoned vehicles. As the council is aware, the city has been dealing with the issue of abandoned vehicles on public and private property for some time. A recent federal court decision (Brite Financial Services, et al v Bobby's Towins Services, LCC, et al, 5:17-cv-13516) invalidated a part of the existing state abandoned vehicle towing law. Specifically, the federal court ruled that there needed to be an exception to having to post a bond to contest the towing fees and the fact that the vehicle has been deemed abandoned. This exception was deemed necessary so that indigent persons could be afforded due process to have a hearing. The amendment adds a provision that allows an indigent person who has had their vehicle towed to file an affidavit of indigency along with their request for a hearing. Approval is recommended.

THE CITY OF ALBION ORDAINS:

Section 1. Chapter 82, Article VIII, Section 82-276, of the Codified Ordinances of the City of Albion, is hereby amended as follows:

ARTICLE VIII: MOTOR VEHICLE CODE

Sec. 82-276. Code Adopted

- a. The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 et seq, and all amendments effective as of the date of this ordinance, is re-adopted and incorporated by reference, including all future amendments made to the Michigan Vehicle Code.
- b. The following sections and subsections of the Michigan Vehicle Code adopted in this Article are amended as set forth in this subsection. Section and subsection numbers shall refer to the like numbered sections in the Michigan Vehicle Code.
 - i. 257.252a(6): The owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing and posting a bond equal to \$40.00 plus the amount of the

accrued towing and storage fees. If the owner is indigent, the owner shall file an affidavit of indigency with the owner's request for a hearing, and no bond shall be required to contest whether the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees. A request for a hearing shall be made by filing a petition with the court specified in the notice described in subsection (5)(c) within 20 days after the date of the notice. Subject to subsection (8), if the owner requests a hearing, the matter shall be resolved after a hearing conducted under sections 252e and 252f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the \$40.00 plus the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court and the accrued towing and storage fees instead of posting the towing and storage bond.

- ii. 257.252d(3)(b): Except for vehicles impounded under subsection (1)(d), (e), or (k), a police agency shall enter the vehicle into the law enforcement information network as abandoned within twenty-four (24) hours after authorizing the removal and follow the procedures set forth in section 252a.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

This Ordinance shall take effect on January 6, 2022 after publication.

First Reading:

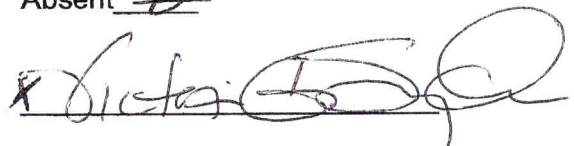
Second Reading & Adoption:

November 15, 2021

December 6, 2021

Ayes 7
Nays 0
Absent 0

Ayes 7
Nays 0
Absent 0



Jill Domingo,
Clerk

Victoria Garcia-Snyder,
Mayor.