

## Chapter 9

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#### Section 9-1 Assault and Battery

It shall be unlawful for any person to commit an assault or an assault and battery within this City.

#### Section 9-2 Breach of Peace

It shall be unlawful for any person to conduct himself in a noisy, boisterous, belligerent, violent or tumultuous manner, which causes disturbance to the peace and quiet of others. No person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

#### Section 9-3 Courtesy, etc., Due to and From Municipal Employees

Municipal officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of official duties so as to not deprive any person, at the time and under the circumstances existing then and there, of any lawful right or benefit to which such person is entitled. Any person who feels aggrieved by the conduct of any municipal officer or employee is hereby invited to bring the matter to the attention of such officer's or employee's department head or to the mayor, without prejudice to any other recourse to which such aggrieved person may be entitled.

Members of the public, in turn, should be courteous in their transactions with municipal officers and employees, and it shall be unlawful for any person to knowingly taunt, deride, jeer or otherwise insult or debase, whether by act, word or gesture, any municipal officer or employee at any time or place while such officer or employee is lawfully engaged in the performance of any official duty.

## OFFENSES - MISCELLANEOUS

### Section 9-4 Prostitution

It shall be unlawful for any person to knowingly keep, set up, maintain, operate, own, let, sublet, or rent a house, place, building, hotel, tourist camp or other structure for the purpose of prostitution. It shall also be unlawful for any person to engage in, solicit, induce, entice, or procure another to commit or participate in an act of prostitution.

### Section 9-5 Indecent Exposure

It shall be unlawful for any person to intentionally expose his sex organs or anus or the intimate parts of his body under circumstances in which he knows his conduct is likely to cause affront or alarm.

### Section 9-6 Impersonating a Municipal Officer or Employee

No person shall falsely represent himself to be an officer or employee of the city, or without proper authority wear or display any uniform, insignia or credential which identifies any municipal officer or employee; nor shall any person without proper authority assume to act as an officer or employee of the city, whether to gain access to premises, obtain information, perpetrate fraud or any other purpose; provided that this section shall not be construed to prevent a private citizen from making a lawful citizen's arrest when a violation is committed in his presence.

### Section 9-7 Gambling - Crap Tables, Roulette Tables, etc., Prohibited

It shall be unlawful for any person to keep or exhibit a gambling table commonly called a crap table, roulette table, or any other gambling table or device of like kind under any denomination, whether the gambling table, bank or device be played with cards, dice or otherwise, or to be a partner, or concerned in interest, in keeping or exhibiting such table, bank or gambling device of any character.

### Section 9-8 Same - Betting Prohibited

It shall be unlawful for any person at any place, public or private, within this city, to bet or wage money or other things of value on any game of chance, or to knowingly furnish any money or other thing of value to any other person to bet or wage on any such game.

### Section 9-9 Wilful Disruption of Governmental Processes

It shall be unlawful for any person to wilfully interrupt or molest the orderly and peaceful process of any department, division, agency or branch of the municipal government.

### Section 9-10 False Emergency Alarms

It shall be unlawful for any person to intentionally make, turn in, or give a false report of need for police or ambulance assistance, or to aid in the commission of such an act.

## OFFENSES - MISCELLANEOUS

### Section 9-11 Abandoned Refrigerators and other Airtight Appliances

It shall be unlawful for any person to abandon, discard or knowingly permit to remain on premises under his control, in a place accessible to children, any refrigerator or other airtight or semi-airtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with a hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an ice-box, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman.

The imposition of any penalty for a violation of the section shall not excuse the violation or excuse the violator from complying with the provisions of this section. Each day that such violation continues shall constitute a separate offense. The application of any applicable penal provision shall not prevent the removal of the prohibited conditions, and the city shall have the right, in addition to any penal provisions, to enforce the provisions of this section by use of any other legal remedy.

### Section 9-12 Malicious Mischief

It shall be unlawful for any person to wilfully, maliciously or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold any real or personal property which does not belong to him.

### Section 9-13 Loitering

It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander or idle in, upon, or about any way or place customarily open to public use.

### Section 9-14 Weapons

It shall be unlawful for any person to carry on his person within this city any metallic knuckles, dirk, switchblade knife, blackjack, or other weapon or instrument commonly used for the purpose of inflicting personal injury. With regards to firearms, the applicable federal regulations shall apply within this municipality.

### Section 9-15 Same - Discharge of

It shall be unlawful for any person to discharge, within this city, any firearm, air rifle, B.B. gun, slingshot or other weapon or instrument which discharges a projectile capable of inflicting bodily injury except in the lawful defense of person or property and except in the performance of a lawful duty; provided, that this section shall not apply to the use of blank ammunition at athletic events, military funerals and other functions at which the use of blank ammunition is appropriate, nor shall it apply to the use of ball ammunition or arrows on lawful target ranges where such activity is conducted under competent supervision.

Section 9-16 Weeds - Amended June 17, 2014

No owner or tenant of property shall permit grass or other vegetation, commonly recognized as weeds, on such property, to exceed a height of one (1) foot.

Section 9-17 Disorderly Conduct

Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:

- (a) Any person who shall act in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety of his life, limb or health.
- (b) Any person who shall act in a violent or tumultuous manner toward another, whereby property of any person is placed in danger of being destroyed or damaged.
- (c) Any person who shall endanger lawful pursuits of another by acts of violence, angry threats and abusive conduct.
- (d) Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.
- (e) Any person who shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl.
- (f) Any person who shall jostle or roughly crowd or push any person in any public place.
- (g) Any person who shall collect in bodies or crowds for unlawful purposes.
- (h) Any person who shall assemble or congregate with another or others for the purpose of or with the intent to engage in unlawful gambling.
- (i) Any person who shall act in a dangerous manner toward others.
- (j) Any person who shall, by acts or threats of violence, interfere with another's pursuit of a lawful occupation.
- (k) Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered by city police.
- (l) Any person who shall direct words to another, which can be reasonably calculated to incite an assault.

Section 9-18 False Swearing

It shall be unlawful for any person to wilfully swear falsely, under an oath or affirmation lawfully administered, on any occasion concerning any municipal matter or thing, material or not material, or to procure another person to do so.

Section 9-19 Permit Required for Excavation

It shall be unlawful for any person to make an excavation or other opening in any street or public place without first obtaining a permit to do such, the fee for such a permit shall be five (\$5) dollars.



Amended  
10/19/21

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF BELMONT, WEST VIRGINIA, AMENDING SECTION 9-16 WEEDS, OF THE ORDINANCES OF THE CITY OF BELMONT WEST VIRGINIA**

**9-16 (a) DUTY OF THE OWNER TO CUT GRASS AND WEEDS**

It shall be the duty of the owner or tenant of any lot, tract or parcel of land adjacent to any street, alley or sidewalk within the City to cause the grass, weeds and foreign growth thereon to be cut at least once each month during the months of April, May, June, July, August, September and October of each year, and at such other times as the City Council may direct, to prevent such lot, tract or parcel of land from becoming unsightly, unwholesome, offensive or a menace to health or safety.

**9-16 (b) REMOVAL OF GRASS; WEEDS; DEBRIS; REFUSE AND WASTE**

No person shall dump, deposit, or place any refuse, waste, trash, debris, grass or plant cuttings or any offensive or unwholesome substance or matter upon any lot, tract, or parcel of land or upon any street, sidewalk or alley within the City. No person shall permit any refuse, waste, trash, debris, grass or plant cuttings or any offensive or unwholesome substance or matter to accumulate or remain on any lot, tract or parcel of land within the City owned or occupied by such person.

**9-16 (c) CITY REMOVE REFUSE AND WEEDS.**

In each case of violation of Section 9-16(a) or 9-16(b), the City Council may, upon giving not less than five day notice to the owner, cause such refuse, waste, trash, debris, abandoned items, including vehicles or any offensive or unwholesome substance or matter to be removed and cause such grass, weeds and foreign growth to be cut and removed.

**9-16 (d) PENALTY**

Any person violating any of the provisions of this section, (9-16) for which no other penalty has been provided, shall, upon conviction therefore, be fined not more than \$200.00 per day.

CITY OF BELMONT

By *R. J. Fitzpatrick*  
R. J. Fitzpatrick, Mayor

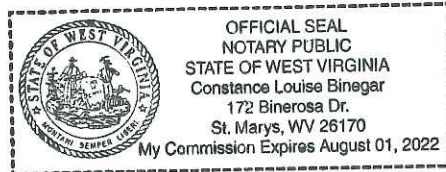
Attest:

*Constance L. Binegar*  
City Recorder

*Passby June 4. 2019*  
Date of First Reading

*June 18. 2019  
second reading*

*June 18. 2019  
adoption*



June 17, 2014  
Date of Second Reading

June 17, 2014  
Date of Adoption

**AN AMENDED ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF  
BELMONT, WEST VIRGINIA, AMENDING SECTION 9-16 WEEDS, OF THE  
ORDINANCES OF THE CITY OF BELMONT, WEST VIRGINIA**

**9-16(a) DUTY OF THE OWNER TO CUT GRASS AND WEEDS**

It shall be the duty of the owner and/or tenant of any lot, tract, or parcel of land adjacent to any street, alley or sidewalk within the City to cause the grass, weeds, and foreign growth thereon to be cut and maintained, at all times of the year, at a maximum height of 6" when measured from the ground to the top of the grass, weeds, and/or foreign growth.

**9-16(b) REMOVAL OF GRASS, WEEDS, DEBRIS, REFUSE, AND WASTE**

No person shall dump, deposit, or place any refuse, waste, trash, debris, grass or plant cuttings or any offensive or unwholesome substance or matter upon any lot, tract, or parcel of land or upon any street, sidewalk, or alley within the City. No person shall permit any refuse, waste, trash, debris, grass or plant cuttings, or any offensive or unwholesome substance or matter to accumulate or remain on any lot, tract or parcel of land within the City.

**9-16(c) PENALTY**

Any person violating any of the provisions of this section, [9-16(a) or 9-16(b)] shall, upon conviction, be fined \$100.00 plus court costs for the first offense; \$300.00 plus court costs for the second offense; \$800.00 plus courts costs for the third offense; and \$800.00 for each subsequent offense.

**9-16(d) CITY REMOVAL OF REFUSE AND WEEDS.**

In each case of conviction of Section 9-16(a) or 9-16(b), the City of Belmont may, upon giving not less than five days notice to the owner, cause such refuse, waste, trash, debris, abandoned items, including vehicles which have not had valid registration for sixty days or any offensive or unwholesome substance or matter to be removed and cause such grass, weeds, and foreign growth to be cut and removed at the expense of owner or tenant.

CITY OF BELMONT

By Jim Barr  
\_\_\_\_\_, Mayor

Attest:

Constance Binegar  
City Recorder

10/5/21  
Date of First Reading

10/19/21  
Date of Second Reading / Adoption



1<sup>ST</sup> 2-17-2020  
2<sup>ND</sup> 3-3-2020  
3<sup>RD</sup> 3-17-2020

ADOPTED

ORDINANCE ENACTING ARTICLE 5-16  
OF THE  
CODIFIED ORDINANCES  
OF THE CITY OF BELMONT, WEST VIRGINIA

BE IT HEREBY ORDAINED by the Council of the City of Belmont that Article \_\_\_\_\_ is hereby ENACTED as follows:

1. **Authority, Effective Date, Title, Purpose, Jurisdiction**
  - a. **Authority:** This ordinance is enacted pursuant to the authority granted to municipalities by West Virginia Code §§ 8-12-6 and 8-12-16c.
  - b. **Effective Date:** This ordinance shall become effective upon enactment.
  - c. **Purpose:** The purpose of this ordinance is to promote the public safety or welfare of the citizens of the City of Belmont, West Virginia by requiring, as the case may be, the repair, vacating, closing, removal or demolition of dwellings or other buildings within the city limit that are found to be unfit for human habitation or are otherwise unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.
  - d. **Jurisdiction.** This ordinance shall apply to all properties within the City of Belmont, West Virginia.
2. **Definitions** The definitions set forth in the authorizing legislation are adopted and incorporated herein.
  - a. "Code Enforcement Agency Official" means the Mayor of the City of Belmont, West Virginia or his designee and shall be deemed as charged with the authority of initiating and maintaining actions pursuant to this Ordinance.
  - b. "Code Enforcement Agency" or "the Agency" is the designated enforcement agency authorized pursuant to the provisions of West Virginia Code § 8-12-16(c) and created hereby.
  - c. "Owner" means a person who individually or jointly with others who:
    - i. Has legal title to the property, with or without actual possession of the property;
    - ii. Has charge, care or control of the property as owner, tenant, lessee, or agent of the owner;
    - iii. Is an executor, administrator, trustee or guardian of the estate of the owner;
    - iv. Is the agent of the owner for the purpose of managing, controlling or collecting rents; or
    - v. May control or direct the management or disposition of the property.
3. **CREATION OF CODE ENFORCEMENT AGENCY** There is hereby established a Code Enforcement Agency which shall be the designated enforcement agency authorized pursuant to the provisions of West Virginia Code § 8-12-16(c). The Code Enforcement Agency shall consist of the Mayor, a Building Safety Inspector, who may be the Mayor or his appointee, and one member at large, who shall be a resident of the City of Belmont, to be selected and to serve at the will and pleasure of the Mayor. The Chief of the Belmont Volunteer Fire Department and the city Sewer Operator shall serve as ex-officio members of the Code Enforcement Agency.



- a. The Code Enforcement Agency, acting by majority vote, shall have the power and authority to require the repair, alteration, improvement, vacating, closing, removal or demolition, or any combination thereof, of any structures, dwelling or other buildings that are unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.
  - b. The Code Enforcement Agency shall have all powers permitted such Agency by W. Va. Code § 8-12-16, whether or not specifically set forth herein.
  - c. The Code Enforcement Agency shall have the right and authority through its members or duly authorized agents, to enter upon any premises and to enter any dwelling or building for the purpose of making an inspection and examination deemed necessary by it in order for such Agency to determine whether such dwelling or building is unfit for human habitation, unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.
  - d. Entry is for the sole purpose of inspection of the structure, dwelling, or building for unsafe or unsanitary conditions, and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary condition of the structure, dwelling, or building.
  - e. When a Code Enforcement Agency Official enters the premises of the property for investigating or inspecting any structure, dwelling, or building, the investigation shall be performed to minimize the inconvenience to the owner or persons in possession and shall be consistent with the following:
    1. Except in exigent circumstances and as permitted by law, the enforcement agency shall provide reasonable advance notice to the owner and request permission from the owner to enter the property.
    2. If the owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section, or if the owner refuses entry, the Agency may obtain an administrative search warrant from either the Municipal Court or the Magistrate Court of Pleasants County. Before obtaining an administrative search warrant, a the Code Enforcement Agency Official is required to make a sworn statement and *prima facie* case showing that the Agency was unable to gain access to the structure, dwelling or building after reasonable and good faith efforts, and that there is a legitimate and substantial safety concern involving the structure, dwelling or building that supports the requested entry.
    3. If granted by the Court, and if the owner can be located, the Agency shall provide the owner a copy of the administrative search warrant five days before entering the property. If applicable, the Agency shall also provide the same notice to any tenant or other person in possession of the structure, dwelling or building.
4. **NOTICE TO REPAIR, CLOSE OR DEMOLISH.** If, after proper investigation and such hearings as the Agency deems necessary, the Agency determines that a structure, dwelling, or other building is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, and/or there is a violation of the State Building Code, the Agency may cause a Final Notice to be issued to the owner to repair, improve, vacate, close, remove or demolish, or any combination thereof, the structure, dwelling, or building. The content, service and posting of any such Notice shall be as follows:
- a. The Notice shall be in writing and contain the date of the last inspection, the name of

the inspector, a reasonable description of the unsafe, unsanitary, dangerous, or detrimental condition(s), the corrective measures required, the allotted time to correct the substandard condition(s) and the allotted time the owner has to request a hearing before the Agency, which such request shall be made within ten days after the date of service of the Notice or such other specific date as set forth in such Notice. Such hearing, at which the owner or owners shall have the right to be heard in full and to introduce such relevant evidence and testimony as they desire, shall be held at the next regularly scheduling meeting of the Code Enforcement Agency, or at an earlier special meeting, or thereafter upon any date by agreement of the owner and the Agency. After such hearing, the Code Enforcement Agency shall issue a decision affirming, rescinding, altering, extending or modifying the Final Notice, which decision shall be made in writing within ten days after the hearing is concluded.

i. The Notice shall be served upon the owner by conspicuously posting and attached a copy of the Notice to the subject property, and by serving the Notice on the owner in the same manner as provided by Rule 4 of the West Virginia Rules of Civil Procedure, mailed to the address on record by the Assessor of Pleasants County for mailing property tax notices.

ii. If the Agency cannot effect personal service on the owner, a code enforcement agency official shall subscribe a written affidavit, to be maintained for a minimum of two years, that demonstrates the structure, dwelling or building falls within one of the categories set forth in W. Va. Code § 8-12-16(f)(1) and sets forth the basis in reasonable detail including documentation of same, and memorializes the Code Enforcement Agency Official's efforts to contact, obtain permission for entry, and corrective action from the owner; and the Agency shall publish notice of its intent to enter the property for the purpose of demolition or correction, along with the address of the property, the name of the owner(s) and the date of the proposed action, as a Class II legal advertisement consistent with the requirements of West Virginia Code § 59-3-2.

5. **RECORDATION OF NOTICE.** In the event of the failure of any owner of any dwelling or other building to comply with the terms and requirements of any Notice, the Code Enforcement Agency may cause a Notice of such violation and non-compliance to be recorded in the Office of the Clerk of the County Agency of Pleasants County, West Virginia, indexed in the name of said owner(s), so as to place any prospective owner on notice of any unsafe, unsanitary or unfit condition prevailing in any dwelling or building, whether used for human habitation or not, which would cause such dwelling or building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.

6. **REMEDIES OF THE CODE ENFORCEMENT AGENCY.** If the owner or owners fail to respond to the Notice issued in accordance with the provisions hereof, and the Notice has not been rescinded, extended or set aside, the Code Enforcement Agency may cause all necessary repairs, alterations, or improvements to be made, or if the public welfare requires, may cause the dwelling, structure, or other building to be closed, removed or demolished.

a. The Agency shall keep an accurate account of all costs against the real property upon which such dwelling, structure, or other building is situate, including the cost for repairs, improvements, alterations, vacating, closing, removal or demolition, and attendant attorney fees and court costs or any combination thereof. The amount of any assessment setting forth the total of such costs shall bear interest at the statutory rate.

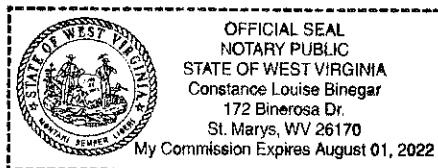
- b. If the assessment is not paid, the Agency, after any sale of any or all salvage materials is credited to the assessment, may place a lien against the real property upon which all such costs were incurred.
  - c. The Notice of Lien shall be a certified statement thereof, showing the nature of the work, the date, and amount thereof, a description of the property affected and the names of the owner or owners thereof, and which said lien shall be recorded in the Office of the Clerk of the County Commission of Pleasants County, West Virginia. Any such liens shall remain a lien upon the real property upon which the subject dwelling, building or other structure is situate for a period of ten years from the recording thereof and for succeeding ten year periods from the date of an Affidavit of Non-Payment and Extension as executed by the Mayor.
7. **PROCEEDINGS IN CIRCUIT COURT AUTHORIZED.** In addition to the remedies set forth in this Article, the Code Enforcement Agency may also institute a civil action in the Circuit Court of Pleasants County, West Virginia, against the owner and/or other responsible party to obtain a Court Order to take corrective action up to and including demolition of any dwelling, structure or building that is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and to recover all reasonable costs and expenses incurred by the Agency and/or the City with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action. No fewer than ten days before instituting a civil action as provided in this Section, the Agency shall send Notice to the owner or owners by certified mail, return receipt requested, advising the owner or owners of the Agency's intention to institute such action. The Notice shall be sent to the most recent address of the owner or owners of record in the Office of the Assessor of the County where the subject property is located and to any other address for the owner or owners as may exist on record with the City. If, for any reason, such certified mail is returned without evidence of proper receipt, the Agency shall reseed the Notice(s) by first class mail, postage prepaid, and shall also post Notice on the front door or other conspicuous location on the subject property.
8. **VIOLATIONS TO BE A MISDEMEANOR – PENALTY.**
- a. It shall be unlawful for any owner or owners of any structure, dwelling, or building determined by the Code Enforcement Agency to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare, and/or in violation of the State Building Code, to fail to comply with any Order of the Agency to repair, vacate, remove or demolish any such structure, dwelling or building, or any other Order of the Agency from which no appeal or other remedy has been invoked.
  - b. A Complaint setting forth a violation of this Article shall be initiated upon a sworn or affirmed Statement before the Municipal Judge. If the Municipal Judge finds probable cause, the sworn Statement becomes the Complaint that initiates the Misdemeanor proceeding. This Complaint along with a Summons shall set forth the date, time and place of appearance before the Municipal Judge.
    - i. The Summons and Complaint may be served by any person authorized to serve a summons in a civil action.
    - ii. The summons and Complaint shall be served upon a defendant by delivering a copy to the defendant personally, or by leaving it at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein and by mailing a copy of the summons to the defendant's last known address.

- c. Upon service of the Summons and Complaint consistent with this Section, the violation may be prosecuted consistent with this Article.
- d. Any person or entity convicted of an offence under this Section shall be fined not more than \$500.00 for each such offense and may be assessed with the costs incurred in remediating the conditions that lead to the filing of the Complaint as restitution.

Adopted on final reading this 17 day of March, 2020.

1<sup>st</sup> 2-17-2020  
2<sup>nd</sup> 3-3-2020  
3<sup>rd</sup> 3-17-2020

*ADOPTED*  
**ORDINANCE ENACTING ARTICLE 5-16  
OF THE  
CODIFIED ORDINANCES  
OF THE CITY OF BELMONT, WEST VIRGINIA**





## OFFENSES - MISCELLANEOUS

### Section 9-20 Smoke Soot, Cinders, etc.

It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes or gases as to be detrimental to or to endanger the health, comfort and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

### Section 9-21 Stagnant Water

It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property.

### Section 9-22 Abandoned Vehicles

It shall be unlawful for any person to abandon a vehicle upon public property or upon property which he does not own, lease, rent or otherwise control within this city. For the purposes of this section, abandoned vehicle shall mean any vehicle or major part thereof that is inoperable and is left unattended on public property for over ten days or has remained illegally on public property for over ten days or has remained on private property without the consent of the owner or person in control of the property for over ten days, or is unattended, discarded, deserted and unlicensed or is inoperative on any public or private property for any period of time over one hundred eighty days. The municipal police department may employ its own personnel, equipment and facilities for the purpose of removing, preserving, or storing abandoned vehicles.