



Tenn. Code Ann. § 55-16-103 (West); and,

Whereas, the Metropolitan Government of Nashville and Davidson County had a population of over 400,000 as of 1980 and subsequent censuses, and had and has a metropolitan form of government, so, per the above, the Metropolitan Council would have the ability to designate that this term “Police Department” as used in the context of this title, chapter and part, would also mean any other department, board or commission designated by the Metropolitan Council; and,

Whereas, within the Metropolitan Government, the Department of Codes Administration (Codes) and the Department of Transportation and Multi-modal Infrastructure (NDOT, formerly the department of Public Works) also perform functions relating to abandoned vehicles, and so it is desirable that they also be designated to fit within the definition of “Police Department,” as that term is defined in Tenn. Code. Ann. Section 55.16.103(6), for the limited purpose of dealing with abandoned vehicles; and,

Whereas, Section 55-16-104 of the Tennessee Code goes on to provide that such a “Police Department”

(a) . . . may take into custody any motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; provided, that any motor vehicle used in curbstoning on residential property may not be taken into custody unless the police department provides notice on the motor vehicle at least forty-eight (48) hours prior to the seizure.

(b) A police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing motor vehicles that have been abandoned, immobile, unattended, or used in curbstoning. . . .

Tenn. Code Ann. § 55-16-104 (West)(emphasis added); and,

Whereas, Section 6.80.540 of the Metropolitan Code currently only authorizes police officers and state highway patrolmen to order an emergency wrecker licensee to engage in an emergency transport or towing of a vehicle in an emergency situation as defined in that chapter; and,

Whereas, given the above, it is desirable for the employees of Codes and NDOT to also have the authority to instruct emergency wrecker licensees to tow or transport an abandoned vehicle in an emergency situation, as described in Metro Code section 6.80.540, so as to enable it to be removed from the public right of way.

NOW, THEREFORE, LET IT BE ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That, as it is authorized to do by that section, the Metropolitan Council hereby designates that the phrase “police department” as used in Tenn. Code Ann. Section 55-16-103, shall mean not just the Metropolitan Nashville Police Department but also Codes and NDOT.

Section 2. That section 6.80.540 of the Metropolitan Code shall be hereby deleted in its entirety and replaced with the following:

Only those persons licensed to provide emergency wrecker service shall transport, tow or convey any vehicle constituting an emergency situation as defined in this chapter and only upon the explicit instructions of a metropolitan police officer, state highway patrolman, employee of the Metropolitan Department of Codes Administration or employee of the Nashville Department of Transportation and Multi-modal Infrastructure. The commission, however, may by rules and regulations authorize such other licensees to provide emergency wrecker service at those times, to the extent and under those circumstances as it shall by rules and regulations provide.

Section 3. That this ordinance shall take effect from and after its final passage, the welfare of The

Metropolitan Government of Nashville and Davidson County requiring

Analysis

This ordinance designates the Department of Codes and the Nashville Department of Transportation and Multimodal Infrastructure (“NDOT”) to meet the definition of “Police Department” related to unclaimed and abandoned vehicles.

State law authorizes metropolitan forms of government with populations over 400,000 to designate any department, board or commission to perform the duties of a police department related to unclaimed and abandoned vehicles. T.C.A. § 55-16-103. Pursuant to the state law, the police department is authorized to remove, preserve, and store motor vehicles that have been abandoned, immobile, or unattended, among other authorizations. T.C.A. § 55-16-104.

Currently, Section 6.80.540 of the Metropolitan Code of Law only authorizes police officers and state highway patrolmen to order an emergency wrecker licensee to engage in an emergency transport or towing of a vehicle in an emergency situation as defined in that chapter.

The ordinance under consideration would authorize Codes and NDOT to instruct emergency wrecker licensees to tow or transport an abandoned vehicle in an emergency situation to enable the vehicle to be removed from the public right-of-way.