

Introduced by: City Manager Debra M. Irvin
of the City of Berkeley, MO

A RESOLUTION AUTHORIZING GEORGE SMITH, A SPECIAL USE PERMIT TO OPERATE ASSET TOWING, LOCATED AT 8533 WABASH AVENUE, IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI

WHEREAS, George Smith, has applied to such City for the issuance of a Special Use Permit to operate Asset Towing a towing, storage of vehicles business; and

WHEREAS, in accordance with the applicable Ordinance of the City of Berkeley, such application was submitted to the City Plan Commission for its investigation and reports, and further, that such City Plan Commission has returned its final report and recommendation wherein it recommended the issuance of a Special Use Permit to George Smith, to operate a towing, storage of vehicles business, located at 8533 Wabash Avenue; and

WHEREAS, due notice of the time, place and purpose of a virtual public hearing was published in two (2) consecutive issues of a newspaper of general circulation in the City or posted on the city’s website, the first notice being published at least ten (10) days prior to the date of the hearing, and written notices of said hearing were mailed to the last known places of abode of the owners of all property lying within one hundred eighty five (185) feet of all boundaries of the property under consideration for a Special Use Permit; and

WHEREAS, such virtual public hearing was duly held by the Council, on April 05, 2021, on behalf of the City of Berkeley, Missouri, in conformity with said public notice at which hearing the parties of interest were given an opportunity to be heard.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BERKELEY, MISSOURI AS FOLLOWS:

SECTION 1. The City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, and the Special Use Permit shall be granted as the Council affirmatively finds as to the required criteria.

SECTION 2. The use of said tracts for the aforesaid purpose is granted subject to the following conditions:

- a) Name of Business: Asset Towing and Recovery
- b) Hours of operation: Monday – Friday 8:00am – 6:30pm; Saturday – 8:00am – 4:00pm; Sunday – 8:00am – 2:30pm; or Towing 24 hours 7 days a week, bringing vehicles to the lot. **Any change of hours shall be approved by the City Council.**
- c) No Towing of any kind shall be conducted after 9pm.
- d) The addresses of the company shall be visible from the public right-of-way. At least one illuminated, instructional sign shall be located at the main entrance to the site and containing the following information:
 - 1. Name of company;
 - 2. Address;
 - 3. Phone number; and
 - 4. Address of company office, if not located on the subject site.
- e) Unit lettering “A” and “B” shall be removed from the building/fence façade.
- f) Tow car storage. A tow car may not be parked or stored in a residential zone when it is not in use, but must be stored in a zone that permits automobile storage.
- g) Asset Towing is to provide armed security for the lot from close to open each day of the week.
- h) Owner must show proof of registration with the State of Missouri as a business with a charter number and the ability to be licensed in St. Louis County and the City of Berkeley for towing operations.
- i) No vehicles shall be sold from this parcel. This Special Use Permit (SUP) does not cover or grant permission for new, used, or pre-owned car sales (in-person or via internet).

- j) Owner is prohibited from holding public auto auctions at this location.
- k) The parking lot needs to be milled down and asphalt overlay. Plans to be approved by the Director of Public Works.
- l) Parking lot shall be striped and numbered for stored cars parking spaces.
- m) The front parking facilities for *customers* need to be striped for parking and spaces allocated and marked to meet ADA regulations.
- n) No auto body work permitted at this site.
- o) Fence screening is required, prevent visibility from the street and pedestrians on the sidewalk.
- p) Outside storage of vehicle parts or wrecked vehicles of any type is prohibited.
- q) No sale of any vehicle parts allowed.
- r) Vehicles left on Berkeley streets during evening or overnight hours will be towed by Berkeley Police Towing Contractor, at owner's and/or customer's expense.
- s) Sidewalk slabs for the business customers need to be repaired.
- t) Properly defined curb cuts *need* to be provided along Wabash Ave for these two existing gates, leading to the storage areas from the City Street.
- u) Complete the repair/replacement of existing fence, gates, railings, slats etc. at the rear of the lot.
- v) All landscaped areas should be properly maintained. No overgrowth around the fence line.
- w) Clear vegetation along Evergreen side of this parcel.
- x) The owner shall submit renovation plans to the Building Commissioner for approval.
- y) Security cameras system is required and must meet the City Camera Registration Program.
- z) An alarm system and panic button are required to be installed.
- aa) An after-hour contact must be included with the Camera Registration.
- bb) Install "No Loitering" and "No Loud Music" signs at entrance wall.
- cc) Section 400.160 (K)(2) Noise: Every use shall be so operated that the maximum volume of sound or noise generated does not exceed forty (40) decibels at any point on the lot line of the lot on which the use is located. Outdoor loudspeakers and audible communication systems are not permitted within one thousand (1,000) feet of a residential district.
- dd) Buildings and site conditions in need of repair shall be repaired or replaced per the approval of the Building Commissioner.
- ee) Owner shall comply with Ordinance 4373 and install and maintain a commercial trash enclosure with dumpster. Proper trash enclosure doors with suitable hinges should be connected for smooth operations. Permit required.
- ff) The building, lot, landscaping, and yard areas shall be maintained and kept free and clear of any debris, trash, or weeds including maintenance of all landscaped areas.
- gg) Signs are prohibited in the right-of-way. A sign permit is required for new signs. No banners, pennants, festoons, searchlights, or human signage directing patrons are prohibited. No banners, balloons, flags or festoons, snipe signs or directional signs in the city's public right-of-way. Business signage shall be limited to no more than 10% of window space. Or ten (10) square feet in area, whichever is the smaller of the dimension. The petitioner will be permitted one exterior wall mounted sign at the front wall of the business.
- hh) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
- ii) The interior will be thoroughly inspected by City's Building Commissioner and Fire Department, and any and all other jurisdictions, if applicable. All permits that are required by any of said mention must be received. Once, all required inspections are completed; apply for all necessary building/occupancy & fire safety permits from the City of Berkeley, and other jurisdictions, after

obtaining City Council's approval on this Special Use Permit. Commercial Occupancy permit and Business License is required and shall be posted at all times.

- jj) In granting such special use permits, the City Council may provide that the permit be valid for a limited period of time not to exceed ten (10) years. Upon expiration of the time limit specified in the permit, the holder of the permit may request the permit be reviewed by the City Council, and the City Council may extend it for another limited period of time not to exceed ten (10) years. The City Council shall provide that the permit be exclusive only for the holder and non-transferable.
- kk) The Special Use Permit will be revoked if for any reason the applicant ceases operations and closes its doors to the public for a period of six (6) months or more, and not complying with the City's Special Use Permit. The Special Use Permit shall not be assigned, or sold, or conveyed, or operated by another without prior approval by the City Council and occupancy permit, building permit or business license shall be issued to such assignee until such approves is secured.
- ll) Any violations can be a reason for the City to revoke this permit, according to the City's current regulations. To occupy the building and facilities the applicant must comply with all the applicable rules and regulations pertaining to health and safety for vehicular and pedestrian traffic, zoning, building, sign codes, fire and safety protection standards as required by the City Fire Department, City of Berkeley, St. Louis County, State of Missouri, and Federal rules and regulations.
- mm) Prior to issuance of an Occupancy Inspection and Permits, the above noted conditions, the conditions as described in the attached Report, and the inspections as part of the normal occupancy permit process shall be met, and as approved by the City Council. This Special Use Permit takes effect upon the approval by City Council.
- nn) The City Council may, in accordance with Section 400.580, institute a rezoning. The City Council, after a public hearing, may revoke a special use permit for failure of compliance with regulations and restrictions of this Chapter or the requirements of the special use permit.
- oo) If the City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, then the special use permit shall be granted; but if it is negative as to any of such paragraphs, then the special use permit shall be denied.

SECTION 3. The Department of Public Works shall be charged with responsibility for the enforcement of this Resolution and incorporated therein all necessary reports.

SECTION 4. This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this day of **2021**

ATTEST:

Mayor Babatunde Deinbo

Deanna Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Virtual Roll Call:

Councilwoman Mitchell	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Greene	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___