

**ORDINANCE NO. 301**

AN ORDINANCE FOR THE IMPOUNDING AND DISPOSITION OF DISCARDED VEHICLES.

NOW, THEREFORE,

The city of Cascade Locks, Hood River County, Oregon, ordains as follows:

SECTION 1. Definitions. As used in this ordinance, the following mean:

Costs. The expense of removing, storing, or selling a discarded vehicle.

Discarded Vehicle.

(1) A vehicle that does not have an unexpired license plate lawfully affixed to it and is in one or more of the following conditions:

- a. Inoperative.
- b. Wrecked.
- c. Dismantled.
- d. Partially dismantled.
- e. Abandoned.
- f. Junked.

(2) Discarded vehicles include major parts of vehicles, including but not limited to, bodies, engines, transmissions, and rear ends.

Law Enforcement Officer. Includes any authorized law enforcement officer of the city.

Person in Charge of Property. An agent, occupant, lessee, contract purchaser, owner, or person having possession, control, or title to property where a vehicle is located.

Vehicle. Every device in, upon, or by which a person or property is or may be transported or drawn upon a public highway, except devices moved-by human power or used exclusively upon stationary rails or tracks.

Vehicle Owner. An individual, firm, corporation, or unincorporated association with an individual or joint claim or a legal or equitable interest in a vehicle.

SECTION 2. Declaration of Public Nuisance. Accumulation and storage of discarded vehicles reduces property values, is unsightly, promotes neighborhood deterioration, invites plundering, creates fire hazards, is an attractive nuisance causing a hazard to minors' health and safety, creates a harborage for rodents and insects, and is injurious to the health, safety, and general welfare. Therefore, a discarded vehicle on private property is a public nuisance which may be abated in accordance with this ordinance.

SECTION 3. Prohibited Action. Storage of a discarded vehicle on private property in Cascade Locks is prohibited unless the vehicle is completely enclosed by a building or stored by a lawfully conducted business dealing in junked vehicles.

SECTION 4. Investigation.

(1) When a law enforcement officer investigates a discarded vehicle on private property and determines that a nuisance exists, the officer shall:

(a) Attempt to discover the owner of the vehicle and the person in

charge of the property on which the vehicle is located; and

(b) Give written notice to them by personal service or by registered or certified mail that the vehicle is in violation of this ordinance.

(2) If the owner of the vehicle is not found, the officer shall place a notice on the windshield or some other part of the vehicle where it can be easily seen.

SECTION 5. Contents of Notice. A notice issued under section 4 shall

state:

(1) That the discarded vehicle is in violation of this ordinance and that within 10 days after sending or posting the notice:

(a) The vehicle must be removed from the city or to the storage yard of a lawfully conducted business dealing in junked vehicles; or

(b) The vehicle must be completely enclosed within a building.

(2) That the alternative to compliance with subsection 1 is to petition the city recorder within the 10-day period described in subsection 1 and make a written request to appear before the council to show why the vehicle should not be immediately removed or properly stored.

(3) That failure to comply with this ordinance authorizes the city to remove the vehicle, charge the cost against the property from which it was removed, and to sell the vehicle to satisfy the costs of removal and storage.

SECTION 6. Entry on Private Property.

(1) Any law enforcement officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection before entering onto private property.

(2) No search warrant shall be issued under this ordinance until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this ordinance as the basis for the inspection, stating whether it is an inspection instituted by complaint, or giving other specific or general information concerning the vehicle in question or the property on which it is located.

(3) No person shall interfere with or attempt to prevent a law enforcement officer from entering private premises and inspecting a vehicle when an emergency exists or when the officer exhibits a warrant authorizing entry

#### SECTION 7. Hearing by Council.

(1) Following a request, the council shall fix a time for a hearing to show cause why a vehicle should not be abated immediately and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of the vehicle. After the hearing, the council may order the vehicle removed by the city in accordance with the provisions of this ordinance.

(2) The council shall make its order in the form of a resolution declaring the vehicle to be a public nuisance. The resolution may order the removal of more than one vehicle and may consolidate the hearings and orders relating to more than one vehicle. People receiving the notice specified in section 4 shall be sent copies of the resolution of the council.

(3) The council may impose conditions and take other action it considers appropriate under the circumstances to carry out this ordinance. It may delay the time for removal of the vehicle when, in its opinion, circumstances justify such action. It shall refuse to order removal of the vehicle when the vehicle, in the opinion of the council, is not subject to the provisions of this ordinance. The council shall not be bound by technical rules of evidence in conducting the hearing.

#### SECTION 8. Abatement by the City and Appraisal.

(1) Ten days after giving the notice required in section 4 or, if a hearing is held, ten days after adoption of a resolution declaring a vehicle to be a public nuisance as required in section 7, the city will have jurisdiction to abate the nuisance and may remove the vehicle by use of city employees or authorized independent contractors. No person shall interfere with, hinder or refuse to allow authorized persons to enter private property to remove a vehicle under this ordinance.

(2) After removing the vehicle, the city shall have it appraised.

#### SECTION 9. Low-Value Vehicle.

(1) if the vehicle is appraised at \$750 or less, the law enforcement officer shall file an affidavit with the Motor Vehicles Division describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled. The law enforcement officer may dispose of the vehicle and execute a certificate of sale without notice and public auction.

(2) The certificate of sale shall be on a form provided by the city recorder

#### SECTION 10. Public Sale Notice.

(1) If the vehicle is appraised over \$750, the law enforcement officer shall publish a notice of sale in a newspaper of general circulation within the city. The notice of sale shall state:

(a) The sale is of discarded property in possession of the city.

(b) A description of the vehicle, including the type, make, license number, identification number, and any other information that will aid in accurately identifying the vehicle.

(c) The terms of the sale.

(d) The date, time, and place of the sale.

(2) The notice of sale shall be published twice. The first publication shall be made not less than 15 days before the date of proposed sale, and the second shall be made not less than 7 days before the date of proposed sale.

#### SECTION 11. Public Sale.

(1) If a vehicle is subject to Section 10, the law enforcement officer shall hold a sale at the time and place appointed, within view of the vehicle to be sold.

(2) The vehicle shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs.

(3) When the purchase price is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder.

(4) The certificate of sale shall be on a form provided by the city recorder.

#### SECTION 12. Redemption Before Sale.

(1) A vehicle impounded under the provisions of this ordinance may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:

(a) Submit satisfactory evidence of ownership or interest in the vehicle to the law enforcement officer.

(b) Pay the costs owing at the time the application to redeem is made.

(c) Give evidence that the nuisance character of the vehicle will not be resumed.

(2) Upon compliance with subsection (1), the law enforcement officer shall

#### SECTION 13. Assessment of Costs.

(1) After disposing of the discarded vehicle and deducting any money received from sale of the vehicle from the costs, the city recorder shall give notice by personal service or by registered or certified mail to the person in charge of the property from which the vehicle was removed:

(a) Of the unpaid costs of abatement.

(b) That the costs as indicated will be assessed to, and become a lien against, the real property unless paid within 30 days from the date of the notice.

(c) That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder within 20 days from the date of the notice of unpaid costs.

(2) Within 40 days after the date of the notice of objection, objections to the proposed assessment shall be heard and determined by the council.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, or within 10 days of a council determination made under subsection 2 of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 6 percent per annum. Interest shall accrue from the date of the entry of the lien into the lien docket.

(5) An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property.

SECTION 14. Penalties. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued or permitted; and, upon conviction of any such violation, such person shall be punishable by a fine of not more than \$100.00 per day for each day said violation continues.

Passed by the council and approved by the Mayor August 24, 1992

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