

Chapter 5.10
DISCARDED VEHICLES

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5.10.010 Definitions.

As used in this chapter, unless the context requires otherwise, the following mean:

- (1) "Abandoned" or "abandoned vehicle" means any vehicle that has been deserted or relinquished. A vehicle shall be considered abandoned if it has remained in the same location for more than twenty-four hours and one or more of the following conditions exist:
 - (a) The vehicle does not have an unexpired license plate lawfully fixed to it, or
 - (b) The vehicle appears to be inoperative or disabled, or
 - (c) The vehicle appears to be wrecked, partially dismantled or junked.
- (2) "Destruction derby vehicle" means a vehicle which is modified for use and is used, has been used or is intended to be used in a destruction derby event, whether or not the vehicle is registered for use on public highways.
- (3) "Disabled vehicle" means a vehicle which is inoperable, partially or wholly dismantled, junked, wrecked, or in a similar condition.

- (4) "Discarded vehicle" discarded vehicle means a vehicle which does not have lawfully affixed to it an unexpired license plate and is in one or more of the following conditions:
- (a) inoperative
 - (b) wrecked
 - (c) dismantled
 - (d) partially dismantled
 - (e) abandoned
 - (f) junked.

Discarded vehicles may be considered to include major parts of vehicles, including but not limited to bodies, engines, transmissions and rear ends.

- (5) "Off-Road vehicle" means an off-road, snow mobile, all terrain vehicle, dune buggy or similar vehicle which is made exempt from vehicle registration requirements for use on public highways by the provisions of ORS 803.305.
- (6) "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.
- (7) "Chief of Police" includes any authorized law enforcement officer of the City.
- (8) "Costs" mean the expense of removing, storing or selling a vehicle, including administrative and legal expenses.
- (9) "Property Owner" means an agent, occupant, lessee, contract purchaser, owner or person having possession, control or title of property where a vehicle is located.
- (10) "Vehicle Owner" means an individual, firm, corporation or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.

5.10.020 Declaration of a Public Nuisance.

The open accumulation and storage of an abandoned, disabled, discarded, off road or destruction derby vehicle is found to create a condition tending to reduce the value of private property, to promote blight, deterioration and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance causing a hazard to minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of such a vehicle in excess of seven (7) days on private property is declared to constitute a public nuisance which may be abated in accordance with the provisions of this chapter.

5.10.030 Prohibited Action.

No person shall park, store, leave or permit the parking or storage of an abandoned, disabled, discarded, off-road or destruction derby vehicle upon private property within the City in excess of seven (7) days, unless the vehicle is completely enclosed within a building, garage, or covered trailer. Temporary movement of the vehicle shall not extend the seven (7) day time limit. This section shall not apply to the operation of a business enterprise conducted in a lawful place and manner and properly licensed. Further, it shall not apply to vehicles surrounded by a sight-obscuring commercial fence or concealed by a cover in good repair which is approved by the City.

5.10.040 Police Duty.

- (1) Whenever an abandoned, discarded, off-road or destruction derby vehicle is found in violation of this chapter, the Chief of Police shall:
 - (a) Make an investigation to discover the owner of the vehicle and the person in charge of the property upon which the vehicle is located and give written notice to them by personal service or by registered or certified mail that the vehicle is in violation of this; and
 - (b) If the owner of the vehicle is not found, place a notice upon the windshield or some other part of the vehicle where it can be easily seen.
- (2) The notice shall state that a certain abandoned, disabled, discarded, off-road or destruction derby vehicle is in violation of this chapter and that within 10 days of the day of sending or posting the notice:
 - (a) The vehicle must be removed from the City or to the storage yard of a business enterprise dealing in junked vehicles lawfully conducted within the City; or
 - (b) Be completely enclosed pursuant to Section 5.10.030.

- (3) The notice shall also state that the alternative to compliance with subsection (2) is to petition the City Recorder and request in writing an appearance before the City Manager within 10 days of sending or posting the notice and show cause why the vehicle should not be immediately abated as provided in this chapter.
- (4) The notice shall also state that failure to comply with this chapter authorizes the City to remove the vehicle and charge the cost against the property.

5.10.050 Entry Upon Private Property.

- (1) The chief of police is authorized at all reasonable times to enter upon private property and examine any vehicle for the purpose of determining whether or not it is a vehicle regulated by this chapter. However, before entering upon private property, the chief shall obtain the consent of an occupant or a warrant of the municipal court authorizing his entry for the purpose of inspection, except when an emergency exists.
- (2) No search warrant shall be issued under the terms of this chapter 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 chapter as the basis for the inspection, whether it is an inspection instituted by complaint, or other specific or general information concerning the vehicle in question or the property on which it is situated.
- (3) No person shall interfere with or attempt to prevent the chief of police from entering upon private premises and inspecting any vehicle when an emergency exists or the chief exhibits a warrant authorizing entry.

5.10.060 Hearing by the City Manager.

- (1) Following a request, the City Manager shall fix a time for a hearing to show cause why a vehicle should not be immediately abated. The City Manager shall receive the evidence and testimony of the chief of police and other interested persons concerning the existence, location and condition of the vehicle. After the hearing, the City Manager may authorize and order the vehicle removed by the City in accordance with provisions of this chapter.

- (2) The City Manager shall make his/her order in the form of a written order which declares the vehicle to be a public nuisance. The order may order the removal of more than one vehicle and may consolidate the hearings and orders relating to more than one vehicle. The persons receiving the notice specified in Section 5.10.040 shall be sent copies of the written order of the City Manager.
- (3) The City Manager may impose conditions and take such other action as he/she considers appropriate under the circumstances in order to carry out the purposes of this chapter. The City Manager may delay the time for removal of the vehicle when, in the City Manager's opinion, the circumstances justify it. The City Manager shall refuse to order the removal of the vehicle when the vehicle, in the opinion of the City Manager is not subject to the provisions of this chapter. The City Manager shall not be bound by the technical rules of evidence in the conduct of the hearing.

5.10.070 Abatement by the City and Appraisal.

- (1) Ten days after giving the notice required in Section 5.10.040, or 10 days after the issuance of an order declaring a vehicle to be a public nuisance as required in Section 5.10.060, the City will be considered to have acquired 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 upon private property for the purpose of removing a vehicle under the provisions of this chapter.
- (2) After removing the vehicle, the City shall cause it to be appraised.

5.10.080 Low Value Vehicle.

The procedures set forth in ORS 819.220-819.260 may be used for the sale of a vehicle which is appraised at \$750 or less. Said statutes are adopted by this reference and made a part of this chapter.

5.10.090 Public Sale Notice.

- (1) If the vehicle is appraised at over \$750, the chief of police shall publish in a newspaper of general circulation within the City a notice of sale. The notice of sale shall state:
 - (a) The sale is of a vehicle in the possession of the City;
 - (b) A description of the vehicle, including the type, make, license number, identification number, and any other information which will aid in accurately identifying the vehicle;

- (c) The terms of the sale; and
 - (d) The date, time and place of the sale.
- (2) The notice of sale shall be published two times. The first publication shall be made not less than 14 days prior to the date of the proposed sale, and the second shall be made not less than seven days prior to the date of the proposed sale.

5.10.100 Public Sale.

- (1) If a vehicle is appraised over \$750, the chief of police 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 those bids which are entered are less than the costs incurred by the City, the Chief of Police may enter a bid on behalf of the City in the amount equal to the costs.
- (3) At the time of payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which 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, and shall include the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle and a stipulation that no warranty is made as to the condition or title of the vehicle.

5.10.110 Redemption Before Sale.

- (1) A vehicle impounded under the provisions of this chapter may be redeemed by its owner, or by the person who is in charge of the property from which the vehicle was removed, before a sale or disposition has taken place, by applying to the police department. The person shall:
 - (a) Submit evidence of ownership or interest in the vehicle, satisfactory to the chief of police, that the claim is rightful;
 - (b) Pay the costs owing at the time the application to redeem is made; and
 - (c) Give evidence that the nuisance character of the vehicle will not be resumed.

- (2) Upon compliance with subsection (1), the chief of police shall execute a receipt and cause the vehicle to be returned.

5.10.120 Assessment of Costs.

- (1) After disposing of the discarded vehicle and deducting the costs from the money, if any, received from any sale of the vehicle, the City Recorder shall, if there are remaining unpaid costs, give notice as specified in Section 5.10.040 to the person in charge of the property from which the vehicle was removed:
 - (a) Of the unpaid costs of abatement.
 - (b) That the cost 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 cost of the abatement indicated, he may file a written notice of objection with the City Recorder within 20 days from the date of the notice.
- (2) Within 40 days after the date of the notice, 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, an assessment of the costs shall be made by resolution of the Council, entered in the docket of City liens, and, upon the entry's being made, shall constitute a lien upon 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 9 percent per annum. Interest shall accrue from the date of the entry of the lien in 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 the notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property.

5.10.130 Offense.

Violation of Section 5.10.030 of this chapter constitutes a Class B infraction as defined under ORS Chapter 153. Persons found guilty of a violation of Section 5.10.030 shall be subjected to a fine not to exceed \$100. Each day's violation of Section 5.10.030 of this chapter shall constitute a separate offense. The abatement of nuisance as herein provided shall not constitute a penalty for violation of Section 5.10.030 of this chapter, but shall be in addition to any penalty imposed for a violation of this chapter.

5.10.140 Appeal by way of writ of review

Any appeal of the City Manager's decision as the same is made under the terms of Section 5.10.060 shall be by way of writ of review (ORS 34.010 to ORS 34.100) and not otherwise.

(Implementing Ordinance No. 204, December 2, 1991; revised January 21, 2003, Ordinance No. 304.)