

ORDINANCE NO. 272

AN ORDINANCE RELATING TO ABANDONED VEHICLES AND AUTOMOBILE HULKS, ESTABLISHING PROCEDURES FOR THE IMPOUNDMENT THEREOF, ESTABLISHING PROCEDURES FOR THE ABATEMENT AND REMOVAL AS PUBLIC NUISANCES OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES OR AUTOMOBILE HULKS OR PARTS THEREOF FROM PUBLIC OR PRIVATE PROPERTY; PROVIDING THAT THE COST OF REMOVAL MAY BE ASSESSED AGAINST THE LAST REGISTERED OWNER OF THE VEHICLE OR AUTOMOBILE HULK OR AGAINST THE OWNER OF THE PROPERTY ON WHICH THE VEHICLE IS STORED; ESTABLISHING PROCEDURES AND ESTABLISHING PENALTIES.

WHEREAS, the legislature of the State of Washington has enacted legislation permitting cities to establish procedures with reference to the impoundment and the abatement and removal as public nuisances of abandoned, wrecked, dismantled or inoperative vehicles or automobile hulks, or parts thereof; and, in the exercise of its police powers, the Town of Granite Falls deems that the enactment of this ordinance is necessary for the protection and preservation of the health, safety, aestheticism and welfare of its citizens and shall be liberally construed to accomplish its purposes; now, therefore.

THE TOWN COUNCIL OF THE TOWN OF GRANITE FALLS, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1: Definitions:

(a) "Abandoned vehicle" means any vehicle or automobile hulk left within the right of way of any highway or on the property of another without the consent of the owner of such property for a period of twenty-four hours, or longer: PROVIDED, that a vehicle or hulk shall not be considered abandoned if it is lawfully parked for a period not exceeding seventy-two hours: PROVIDED FURTHER, that a vehicle or hulk shall not be considered abandoned if its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(b) An "Abandoned automobile hulk" for the purposes of this ordinance shall mean the abandoned remnant or remains of a motor vehicle which is inoperative and cannot be made mechanically operative without the addition of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs.

Section 2: It shall be unlawful for any person, natural or corporate, to place or keep an abandoned vehicle, an abandoned automobile hulk, a discarded or junk automobile or portion thereof, upon any public or private property within the Town of Granite Falls, or, as owner, occupier or party in control of any real property within the Town to permit or allow any such automobile or portion thereof to be placed or kept upon said property, unless

- (a) The vehicle or part thereof is completely enclosed within a building where it is not visible from the street or other public or private property; or
- (b) The vehicle or part thereof is stored or parked in a lawful manner on private property in connection with the business as a licensed dismantler or licensed dealer, fenced according to the provisions of RCW 46.80.130.

Section 3: The abandonment of any vehicle or automobile hulk shall constitute a prima facie presumption that the last owner of record is responsible for abandonment and thus liable for any costs incurred in the removing, storing and disposing of such motor vehicle or automobile hulk. A registered owner who has complied with the requirements of Section 39, Chapter 281, Laws of 1969, Ex. Session, shall be relieved of liability under this section.

Section 4: It shall be prima facie evidence that an automobile or portion thereof is abandoned, junked and / or discarded if the same is (a) inoperable by reason of damage, neglect or the removal of parts therefrom; (b) unlicensed for current operation on a public street; and (c) has been substantially in the same condition and location for more than ten (10) days. The provisions of this section shall not apply to commercial establishments which are regularly licensed to handle junk automobiles and otherwise are complying with state and local laws and regulations.

Section 5: Members of the police department are authorized to remove and impound vehicles without notice by means of towing or otherwise to the nearest garage or other place of safety or to a garage designated or maintained by the police department or otherwise maintained by the local authority, under any of the following circumstances:

- (a) When a vehicle is obstructing traffic on any public street or alley and the person in charge of the vehicle is unable or refuses to remove it or provide for its removal;

- Section 5:
- (b) When a vehicle is left unattended upon any street or alley and is so parked illegally as to constitute a hazard or obstruction or potential hazard or potential obstruction to the normal movement of traffic;
 - (c) When any vehicle is left unattend upon any bridge, viaduct or restricted vehicular accessway where such vehicle constitutes an obstruction to traffic;
 - (d) When a vehicle has been parked or left standing in any public street or alley for a continuous period of time of more than seventy-two (72) hours.
 - (e) When any vehicle is found in a tow-away zone;
 - (f) When any vehicle operating on a highway is found to be defective in equipment in such manner that it may be considered unsafe;
 - (g) When the operator of any vehicle is arrested and placed in custody and is not in condition to drive and the vehicle is not in a place of safety and there is no other person present who may properly act as agent for such operator to drive the vehicle to a place of safety or the operator of the vehicle is incapacitated as the result of an accident and is unable to care for his property and there is no other person present who may properly act as agent for such operator.
 - (h) When any vehicle is left adjacent to temporary barricades erected in the public right-of-way for public safety.

Section 6: Vehicles impounded pursuant to this ordinance shall be removed to a place of storage designated or maintained by the Police Department or to such other place of safety as the Town Marshal may direct. In the event private towage and storage services are used, the Police Department shall provide the private firm with a written order to tow and store the vehicle.

Section 7: When a vehicle is impounded, the Police Department shall report the same to the Washington State Patrol and shall give notice to the registered and / or legal owner thereof, if the name and address of the owner can be ascertained.

Members of the Police Department are authorized to remove and impound any abandoned vehicle, or abandoned junk motor vehicle found on a street or alley by means of towing or otherwise to the nearest garage or other place of safety or to a garage designated or maintained by police department or otherwise maintained by the local authority.

Whenever an officer removes and impounds a vehicle from a highway as authorized in subsection (1) of this section, he shall as soon as practicable give or cause personal notice to be given in writing to the owner of such vehicle, if any record exists of the registered or legal owner in the records of the authority last licensing such vehicle, of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

Any costs incurred in the removal and storage of an impounded vehicle shall be a lien upon the vehicle. All towing and storage charges on each vehicle impounded shall be paid by the owner or his agent if the vehicle is redeemed. In the case of abandoned vehicles, all costs of removal and storage shall be paid by the owner or his agent if the vehicle is redeemed, but if not redeemed, such costs shall be received from the proceeds of sale.

The impounding of a vehicle shall not preclude charging the violator with any violation of the law on account of which such vehicle was impounded.

Either a registered or legal owner may claim an impounded vehicle by payment of all charges that have accrued to the time of reclamation. If the vehicle was impounded at the direction of a law enforcement agency, the person in possession of the vehicle prior to the time of reclamation shall notify such agency of the fact that the vehicle has been claimed, and by whom.

Section 10: The Town Marshal may appoint any towing truck operator engaged in removing and storing of abandoned motor vehicles as his agent for the purpose of disposing of certain abandoned vehicles and automobile hulks. Each such appointment shall be contingent upon the submission of an application to the Town Marshal and the making of subsequent reports of such form and frequency as may be required by rule and regulation and upon the posting of a surety bond in the amount of \$3,000.00 to insure compliance with sections 11 and 12 of this ordinance and to compensate the owner of any vehicle that has been unlawfully sold as a result of any negligence or misconduct of the tow truck operator. Any appointment may be cancelled by the Town Marshal upon evidence that the appointed tow truck operator is not complying with all laws, rules and regulations relative to the handling and disposition of abandoned motor vehicles.

Section 11: Such tow truck operator shall take custody of such abandoned automobile or automobile hulks, remove the same to the established place of business of the tow truck operator where the same shall be stored and such tow truck operator shall have a lien upon such vehicle or hulk, but not the personal property therein, for services provided in the towing and storage of the same, and shall also have a claim against the last registered owner of such vehicle or hulk for services provided in the towing and storage of the same, not to exceed the sum of \$100.00. A registered owner who has complied with section 39, Chapter 281, Laws of 1969, Ex. session, shall be relieved of liability under this section. Within five (5) days after receiving custody of such abandoned vehicle or automobile hulk, the tow truck operator shall give notice of his custody to the Department of Motor Vehicles and the Chief of the Washington State Patrol and within five (5) days after having received the name and address of the owner, he shall notify the registered and legal owner of the same with copies of such notice being sent to the Chief of the Washington State Patrol and to the Department of Motor Vehicles. The notice to the registered and legal owner shall be sent by the tow truck operator to the last known address of said owner appearing on the records of the Department of Motor Vehicles, and such notice shall be sent to the registered and legal owner by certified or registered mail with a 5-day return receipt requested.

Such notice shall contain a description of the vehicle or hulk including its license number and / or motor number if obtainable, and shall state the amount due the tow truck operator for services in towing and storage of the time and place of public sale if the amount remains unpaid.

Section 12: If, after the expiration of fifteen (15) days from the date of mailing of notice to the registered and legal owner, the vehicle or automobile hulk remains unclaimed and has not been listed as stolen or recovered vehicle, then the tow truck operator having custody of such vehicle or hulk shall conduct a sale of the same at public auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days before the date of such auction. Such abandoned vehicle or automobile hulk shall be sold at such auction to the highest bidder. The proceeds of such sale, after deducting the towing and storage charges due the tow truck operator, including the costs of sale, which shall be computed as in a public auction of personal property by the Sheriff, shall be certified one-half to the County Treasurer of Snohomish County to be credited to the County Current Expense Fund, and one-half to the State Treasurer to be credited to the Highway Safety Fund. If the amount bid at the auction is insufficient to compensate the tow truck operator for his towing and storage charges and the costs of sale, such tow truck operator shall be entitled to assert a claim for any deficiency, not to exceed the sum of \$100.00. A registered owner who has complied with Section 39, Chapter 281, Laws of 1969, Ex. Sess., shall be relieved of liability under this section.

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Section 12: In addition to abandoned vehicles, abandoned junk motor vehicles, and impounded vehicles meeting the requirements of section 11 of this act, vehicles left in garage storage may be deemed abandoned in the following manner:

(1) A vehicle stored under a fixed contract of storage may be deemed abandoned on the fifth day following expiration of the contract.

(2) A vehicle stored under an open-ended contract of storage may be deemed abandoned at any time by the garage keeper.

All such abandoned vehicles shall be disposed of by a registered disposer in accordance with the procedures prescribed in sections 10 and 11 of this act. Any registered disposer failing to report the fact of abandonment to the department and the Chief of the Washington State Patrol pursuant to section 11 of this act, shall forfeit any claim for the storage of any such vehicle.

Section 13: A tow truck operator bonded in accordance with the provisions of this ordinance who shall tow, transport or store any vehicle, whether by contract or at the direction of any public officer, shall have a lien upon such vehicle so long as the same remains in his possession, for the charges for such towing, transportation or storage. If such a vehicle remains unclaimed for five (5) days, it may be deemed abandoned and subject to the provisions of sections 11 and 12 of this ordinance.

Section 14: It shall be the duty of the Town Marshal to report immediately to the Chief of the Washington State Patrol all motor vehicles reported as stolen or recovered upon forms to be provided by the Chief of the Washington State Patrol.

Section 15: In the event that any motor vehicle reported as stolen has been recovered, the person so reporting the same as stolen shall be guilty of a violation of this ordinance unless he shall report the recovery thereof to the Town Marshal of the Town of Granite Falls.

Section 16: The storage or retention of abandoned, wrecked, dismantled or inoperative vehicles or automobile hulks on any private property in the Town of Granite Falls is hereby declared to be a public nuisance which shall be abated and removed in accordance with the provisions of this ordinance hereinafter set forth:

- (a) Costs of abatement and removal of such vehicle may be assessed against the last registered owner of the vehicle or automobile hulk if the identity of such owner can be determined unless such owner in the transfer of such vehicle or automobile hulk has complied with Section 46.12.101 RCW, or the costs may be assessed against the owner of the real property on which the vehicle is stored and shall constitute a lien thereon.
- (b) Before the abatement or removal of such vehicle or automobile hulk, notice shall be given to the last registered owner thereof of record and the real property owner of record that a public hearing may be requested before the Town Council of the Town of Granite Falls, and if no hearing is requested within ten (10) days, the vehicle or automobile hulk will be removed and abated and the costs thereof assessed in accordance with this ordinance.
- (c) If a request for hearing is received by the Town Clerk, a notice giving the time, location and date of such hearing on the question of the abatement and removal of such vehicle or automobile hulk as a public nuisance shall be mailed by certified or registered mail with a 5-day return requested, to the owner of the real property as shown on the last equalized assessment roll and to the last registered and legal owner of record of such motor vehicle or hulk, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

Section 16:

- (d) The applicant for hearing may appear in person at such hearing, or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land with his reasons for such denial. If it is determined at the hearing that the vehicle or automobile hulk was placed on the land without the consent of the land owner, and that he has not subsequently acquiesced in its presence, then the Town Council shall not assess costs of administration or removal of the vehicle or automobile hulk against the real property upon which the vehicle is located or otherwise attempt to collect such costs from said land owner.
- (e) After notice has been given of the intent of the Town of Granite Falls to dispose of a vehicle or automobile hulk, the said vehicle or automobile hulk or part thereof shall be removed from the private property by the Chief of Police and disposed of to a licensed auto wreck or tow truck operator, with notice to the Washington State Patrol and the Department of Motor Vehicles that such vehicle or automobile hulk has been wrecked. The Town of Granite Falls may operate a disposal site if the Town Council determines that commercial channels are not available or are inadequate, and may make final disposition of the vehicle hulk or parts, or may transfer such vehicle hulk or parts to another governmental body, provided its disposal shall be only as scrap.
- (f) The Town of Granite Falls may within thirty (30) days after the removal by the Town Marshal of an abandoned, wrecked, dismantled or inoperative automobile vehicle from real property, file for recording with the Snohomish County Auditor a claim for lien for the costs of removal which shall be in substance in accordance with provisions covering mechanic's liens in Chapter 60.04 RCW, and said lien may be foreclosed in the same manner as such lien.

PROVIDED, that this section 16 shall not apply to (1) a vehicle or part thereof which is completely enclosed within a building where it is not visible from the street or other public or private property, or (2) a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business as licensed dismantler or licensed dealer, fenced according to the provisions of RCW 46.52.150.

Section 17: Any owner or person having possession or control of real property who should find an a abandoned vehicle or abandoned vehicle hulk standing upon such property without his consent is authorized to have such vehicle removed from such property by a properly authorized tow truck operator and stored or held for its owner. Any towing firm providing such removal services shall promptly report the fact of a vehicle impound together with the license number, make, year and place of impound of such vehicle to the appropriate law enforcement agency, and shall post the authorized charges therefor prominently at its place of business; and the charges and costs incurred in the removal of any such vehicle as aforementioned shall be paid by such vehicle's owner, and shall be a lien upon said vehicle until paid, and said lien may be enforced as otherwise provided by law for the enforcement of towing or storage liens or liens generally.

Section 18: Whenever any owner or person having possession or control of family residential property finds a vehicle other than an abandoned vehicle standing upon such property without his consent, they are authorized to have such vehicle removed from such property and stored or held for its owner.

Section 19: No person shall have the right to tow, remove, impound or otherwise disturb any motor vehicle other than an abandoned vehicle which may be parked, stalled or otherwise left on private property, other than family residential property, owner of controlled by such person, unless there is posted on or near the property in a clearly conspicuous location a sign or notice. Any such sign shall provide.

