

ORDINANCE NO. 829

AN ORDINANCE 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 costs 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.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MASON COUNTY, WASHINGTON, as follows:

Section 1. Abandoned, wrecked, dismantled or inoperative vehicles or automobile hulks or parts thereof on public or private property are hereby declared to be a public nuisance and may be abated.

Section 2. An "abandoned vehicle" for the purpose of this ordinance shall mean any vehicle left within the limits of any highway or upon the property of another without the consent of the owner of such property for a period of twenty-four hours, or longer, except that a vehicle 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. 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 3. The abandonment of any vehicle or automobile hulk shall constitute a prima facie presumption that the last owner of record is responsible for such abandonment and thus liable for any costs incurred in removing, storing and disposing of such motor vehicle or automobile hulk. A registered owner who has complied with the requirements of RCW 46.52.104 shall be relieved of liability under this section.

Section 4. The Mason County Sheriff 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 located in Mason County. Each such appointment shall be contingent upon the submission of an application to the Sheriff and the making of subsequent reports in 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 6 and 7 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 canceled by the Sheriff 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 5. It shall be the duty of the Mason County Sheriff to report to the Chief of the Washington State Patrol all vehicles or automobile hulks found abandoned on a public highway or at any other place and the same shall thereafter at the direction of such law enforcement officer be placed in the custody of the tow truck operator.

Section 6. Such tow truck operator shall take custody of such abandoned vehicle or automobile hulk, 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 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 RCW 46.52.104 shall be relieved of liability under this section.

Within five 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 Licensing and the Chief of the Washington State Patrol and within five 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 Licensing. 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 Licensing, and such notice shall be sent to the registered and legal owner by certified or registered mail with a five-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 the towing and storage of the same and the time and place of public sale if the amount remains unpaid.

Section 7. If, after the expiration of fifteen 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 a 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 after having first published a notice of the date, place and time of such 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 to the tow truck operator, including the costs of sale, which shall be computed as in a public auction sale of personal property by the Sheriff, shall be certified one-half to the County Treasurer of the county in which the vehicle is located 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 cost of sale, such tow truck operator shall be entitled to assert a claim for any deficiency, not to exceed \$100.00 less the amount bid at the auction, against the last registered owner of such vehicle or automobile hulk. A registered owner who has complied with RCW 46.52.104, shall be relieved of liability under this section.

Section 8. Any vehicle left in a garage for storage more than five days where the same has not been left by the registered owner under a contract of storage and has not during such period been removed by a person leaving the same shall be an abandoned vehicle and notice shall be given to the registered and legal owner and to the Chief of the Washington State Patrol and to the Department of Licensing, of the existence of such abandoned vehicle. Any

garage keeper failing report such fact to the Chief of the Washington State Patrol and the Department of Licensing within ten days after the commencement of such storage shall forfeit any claim for the storage of such vehicle. All such vehicles considered abandoned by being left in a garage shall be disposed of by the garage keeper in accordance with the procedure prescribed in Sections 6 and 7 of this ordinance.

Section 9. A tow truck operator bonded in accordance with Section 4 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 of such towing, transportation or storage. If such a vehicle remains unclaimed for five days, it may be deemed abandoned and subject to the provisions of Sections 6 and 7 of this ordinance.

Section 10. Any automobile or part thereof impounded pursuant to this ordinance and left unclaimed for a period of fifteen days, shall be deemed an abandoned vehicle and at the expiration of such period, the Sheriff may deliver the automobile or part thereof to a tow truck operator or otherwise authorize him to dispose of such in the manner provided in Sections 6 and 7 of this ordinance; PROVIDED, that if the automobile or part thereof is of a model-year ten or more years prior to the calendar year in which such vehicle is stored, the Sheriff may declare that such vehicle is a public nuisance and may dispose of such vehicle without notice of sale and in such case, the Director of the Department of Licensing shall issue an appropriate bill of sale to the tow truck operator so that he may dispose of the vehicle as he may determine.

Section 11. Abandoned, wrecked, dismantled or inoperative vehicles or automobile hulks or parts thereof may be removed from private property by the Sheriff, a tow truck operator qualified under this ordinance, or other agent or designee of the Mason County Sheriff. Costs of removal shall be assessed against the last registered or legal owner of the vehicle or automobile hulk if the identity of such owner can be determined, unless such owner in the transfer of ownership of such vehicle or automobile hulk has complied with RCW 46.52.104, or the costs may be assessed against the owner of the property on which the vehicle is stored. In the event vehicles or parts thereof are to be removed from private property, notice of said removal shall be given and the last registered or legal owner of the vehicle or the property owner may request a hearing prior to removal of the vehicle. Said notice shall be given in writing to the last registered owner of record and the property owner of record that a public hearing may be requested before the Board of Mason County Commissioners, and that if no hearing is requested, the vehicle or automobile hulk will be removed, provided that no abandoned, wrecked, or dismantled or inoperative vehicles or automobile hulks or parts thereof shall be removed from private property without consent of the owner of said property if the owner can establish he is the registered and legal owner of said vehicles or hulks.

Section 12. If a request for a hearing is received a notice giving the time, location and date of such hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified or registered mail, with a five-day return requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership.

Section 13. The owner of the land on which the vehicle is located may appear in person at the 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 was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner.

Section 14. After notice has been given of the intent of the county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof, shall be removed, at the request of a law enforcement officer, and disposed of to a licensed auto wrecker with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked. The county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

Section 15. The ordinance shall not apply to (a) a vehicle or part thereof which is completely enclosed within a building in a lawful manner, where it is not visible from the street or other public or private property or (b) a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, fenced according to the provisions of RCW 46.80.130.

Section 16. Any tow truck operator under contract to the county for the impounding of vehicles shall comply with such administrative regulations relative to the handling and disposing of vehicles as may be promulgated by the County of Mason or the Director of the Washington State Department of Licensing.

PASSED this 12th day of December, 1977.

BOARD OF MASON COUNTY COMMISSIONERS

John Barkshire
Chairman

Tom Taylor
Commissioner

Floyd Cole
Commissioner

ATTEST:

Rogers Cleveland
Clerk of the Board

APPROVED:

Raymond E. McClanahan
Prosecuting Attorney