

ORDINANCE NO. 113**AN ORDINANCE FOR THE IMPOUNDING AND DISPOSITION OF DISCARDED VEHICLES; PROVIDING A PENALTY; AND REPEALING ORDINANCE NO. 1506, AS AMENDED, AND ORDINANCE NO. 102.**

The City of Coos Bay 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. A vehicle that is in one or more of the following conditions:

- (1) Inoperative.
- (2) Wrecked.
- (3) Dismantled.
- (4) Partially dismantled.
- (5) Abandoned.
- (6) Junked.

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 a claim, either individually or jointly, of ownership or an interest, legal or equitable, in a vehicle.

Section 2. Prohibited Action. No person shall keep or permit the storage of a discarded vehicle upon private property within the city for more than seven days unless the vehicle is completely enclosed within a building or unless it is in connection with a lawfully conducted business dealing in junked vehicles.

Section 3. Investigation.

- (1) When a city official investigates a discarded vehicle on private property and determines that a nuisance exists which should be abated, the official 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 city official shall place a notice on the windshield or some other part of the vehicle where it can be easily seen.

Section 4. Contents of Notice. A notice issued under section 4 shall state:

(1) That a certain 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 Municipal Judge within the 10-day period described in subsection (1) and make a written request to appear before the Municipal Judge to show why the vehicle should not be immediately abated.

(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 5. Entry on Private Property.

(1) A city official is authorized to enter onto private property at all reasonable times and examine a vehicle to determine whether it is in a discarded condition. Except when an emergency exists, before entering onto private property, the city official shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.

(2) No search warrant shall be issued under the terms of 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 city official from entering onto private premises and inspecting a vehicle when an emergency exists or when the official exhibits a warrant authorizing entry.

Section 6. Hearing by Municipal Judge.

(1) Following a request to appear, the Municipal Judge shall provide a hearing for the petitioner to show cause why a vehicle should not be abated immediately and to receive evidence and the testimony of the city official and other interested persons concerning the existence, location, and condition of the vehicle. After the hearing, the Judge may order the

vehicle removed by the city in accordance with the provisions of this ordinance.

(2) The order may require the removal of more than one vehicle and may consolidate the hearings and orders relating to more than one vehicle. Persons receiving the notice specified in section 4 shall be sent copies of the order.

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

Section 7. 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 onto private property for the purpose of removing a vehicle under the provisions of this ordinance.

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

Section 8. Low-Value Vehicle.

(1) If the vehicle is appraised at \$750 or less, the city official 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 city official 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 Recorder.

Section 9. Public Sale Notice.

(1) If the vehicle is appraised over \$750, the city official 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 two times, The first publication shall be made not less

than 15 days before the date of the proposed sale, and the second shall be made not less than 7 days before the date of the proposed sale.

Section 10. Public Sale.

- (1) If a vehicle is appraised over \$750, the city official 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 city official may enter a bid on behalf of the city in an amount equal to the costs.
- (3) At the time the purchase price is paid, the city official shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the Recorder.
- (4) The certificate of sale shall be on a form provided by the Recorder.

Section 11. 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 city official before sale or disposition has taken place. The person shall:
 - (a) Submit satisfactory evidence of ownership or interest in the vehicle to the city official.
 - (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 city official shall execute a receipt and cause the vehicle to be returned.

Section 12. Assessment of Costs.

- (1) The City Recorder shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:
 - (a) The total cost of abatement, including the administrative costs.
 - (b) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
 - (c) That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the City Recorder not more than 10 days from the date of the notice.
- (2) No sooner than 30 days after the date of the notice, the Council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as decided by the Council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the discarded vehicle 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 statutory rate, Interest shall accrue from the date of entry of the lien into the lien docket.

(5) An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

Section 13. Penalty. Violation of, or failure to comply with, any provision of this ordinance is punishable upon conviction by a fine not to exceed \$500. Each day's violation constitutes a separate offense.

Section 14. Reveal. Ordinance No. 1506, enacted February 19, 1940, as amended by Ordinance No. 2527, enacted August 28, 1972, and Ordinance No. 2914, enacted December 12, 1983, is repealed.

Passed by the Council and approved by the Mayor December 15, 1987.