

1 CITY OF HOMER
2 HOMER, ALASKA
3 ORDINANCE 85-41
4

5 AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER
6 18.20 OF THE HOMER MUNICIPAL CODE GOVERNING THE
7 REMOVAL AND DISPOSITION OF ABANDONED AND JUNK
8 VEHICLES.

9 WHEREAS, the existing Municipal Code provisions concerning
10 abandoned and junk vehicles have proved difficult to enforce, and

11 WHEREAS, in order to make Chapter 18.20 readily enforceable
12 a general revision of said chapter is necessary, and

13 WHEREAS, the Department of Public Safety and the City
14 Attorney have reviewed similar ordinances from other Alaskan
15 cities and have recommended the changes included in this
16 ordinance.

17 NOW THEREFORE, THE CITY OF HOMER ORDAINS:

18 Chapter 18.20, Abandoned Vehicles, of the Homer Municipal
19 Code is repealed and re-enacted to read as follows:

20 CHAPTER 18.20
21 ABANDONED AND JUNK
22 VEHICLES

23 Sections:

- 24 18.20.010 Definitions
25 18.20.020 Abandoned vehicles
26 18.20.030 Disposition of abandoned vehicles
18.20.040 Waiver of claims for damages

- 1 18.20.050 Junk vehicles
- 2 18.20.060 Disposition of junk vehicles
- 3 18.20.070 Vehicles both junk and abandoned
- 4 18.20.080 Recovery of costs
- 5 18.20.090 Other rights preserved
- 6 18.20.100 Penalty

7
8 18.20.010 Definitions. Unless otherwise expressly stated,
9 wherever used in this chapter the following words and phrases
shall have the meaning given to them by this section.

10 a. "Abandoned vehicle" means a motor vehicle left
11 unattended upon an area described in Section 18.20.020 for
periods in excess of those set forth therein.

12 b. "Junk vehicle" means a motor vehicle that is (1)
13 stripped, wrecked or otherwise inoperable due to mechanical
14 difficulties or because the cost of repairs required to make it
operable exceeds the fair market value of the vehicle.

15 18.20.020 Abandoned vehicles.

16 a. It is unlawful for a person to abandon a vehicle on a
17 street or public right-of-way within the municipality for a
18 period of twenty-four hours or more. "Street" and "public
right-of-way" are defined in Title 11 of the Homer Municipal
Code.

19 b. It is unlawful for a person to abandon a vehicle for a
20 period of 72 hours or more on public property not set aside by
law as a refuse disposal open for the disposal of vehicles.

21 c. It is unlawful for a person, without consent of the
22 property owner or person in possession or control of the
23 property, to abandon a vehicle on private property for a period
of 72 hours or more unless such property is licensed as a
24 junkyard as defined in Section 21.32.250 of this Code and is open
for disposal, or unless all necessary fees for removal and
25 storage have been paid and all other requirements of disposal
have been met.

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18.20.030 Disposition of abandoned vehicles.

a. An abandoned vehicle may be impounded.

b. Prior to impoundment, adequate notice of impoundment and procedures for redemption of a vehicle shall be given by the Director of Public Safety, hereinafter "director", to registered owners of vehicles and other persons, if any, known to have a legal interest in them. Adequate notice shall consist of a certified letter or personal service, when the persons involved are known, or publication at least once in a newspaper of general circulation, if such persons are not known. If such persons are not known or cannot be located, the vehicle shall be impounded and notice shall be by publication at least once in a newspaper of general circulation. The notice shall contain:

1. a description of the vehicle and any property therein;
2. the date, time and place of removal;
3. an indication of the place of impoundment;
4. an itemized statement of amounts due for towing and storage and stating that such fees must be paid prior to redemption of the vehicle;
5. a statement that unless the right to possession is established to the satisfaction of the director and the vehicle reclaimed within 20 days from the date of mailing or publication of the notice, or unless arrangements are made for the storage of the vehicle within that time, the vehicle and its contents may be sold at public auction or, in the director's discretion, if the vehicle is determined by the director to be inoperable or worth less than \$200.00, disposed of by crushing or other means of destruction; and
6. a statement that the owner of or other person with a legal interest in the vehicle may at any time within the twenty day period indicated in the preceding paragraph, request a hearing before the director concerning whether the vehicle was left for the period specified in Section 18.20.020 of this ordinance or concerning the amount due.

1 c. If a vehicle impounded pursuant to the above provisions
2 is not redeemed within the 20-day period set forth above, the
3 director may publish in a newspaper of general circulation notice
4 of public auction. The notice shall contain a description of the
5 vehicle, the name of the owner if known, and a provision stating
6 that the vehicles described will be sold to the highest responsi-
7 ble bidder, and a certificate of sale will be issued for vehicles
8 sold. Such auction may be held 10 days or more following the
9 date of advertisement. Impounded vehicles may also be crushed or
10 otherwise destroyed as provided in subsection b above without
11 further notice at the expiration of the 20-day redemption period.
12 If a vehicle is destroyed, the director shall notify the Alaska
13 Department of Public Safety.

8 d. The Homer Police Department shall keep a record of all
9 vehicles impounded, containing date, time and place of impound-
10 ing, description of the vehicle and contents therein, estimated
11 retail value of the vehicle, its operating condition, cause for
12 which impounded, place of impoundment, date of redemption if
13 redeemed, amount paid upon redemption, date of notice to owner
14 and means of notice, notice of sale, record of sale, price paid
15 and name of purchaser, or record of other means of disposal.
16 Such records shall be kept for a period of three years and
17 thereafter may be destroyed by the department.

14 e. An abandoned vehicle may be removed from private
15 property at the owner's expense if the owner or person in lawful
16 possession or control of the property makes a written request
17 prior to removal.

16 18.20.040 Waiver of claims for damages.

17 a. An owner of an abandoned vehicle, by the act of abandon-
18 ment waives any claims he may have for damage to his vehicle
19 which may result from actions taken pursuant to this Chapter.
20 Such damage includes, but is not limited to, accidental damage or
21 destruction occasioned by removal, transportation and storage,
22 and acts of third parties.

21 b. Should a vehicle purchased at auction pursuant to
22 Section 18.20.030c be damaged or destroyed prior to release, the
23 purchaser's remedy is limited to a return of the purchase price.

23 18.20.050 Junk vehicles.

24 a. It is unlawful for the registered owner or other person
25 with legal right to possession of a junk vehicle to place or
26 allow such vehicle to remain in public view on any property
within the municipality for more than five days. It is also

1 unlawful for the owner, tenant or other person in possession or
2 control of any property to cause or allow a junk vehicle to be
3 placed or remain in public view on such property for more than
4 five days.

5 b. Notwithstanding the provisions of subsection a above, if
6 the director has reasonable grounds to believe that repairs can
7 be made to render a junk vehicle operable, that the registered
8 owner or other person entitled to possession of the vehicle is
9 willing to undertake or have performed such repairs, that the
10 vehicle does not pose any health or safety hazard, and that there
11 is no reasonable means for removing the vehicle from public view
12 while repairs are being performed, the director may authorize a
13 period of no more than 30 days for the performance of such
14 repairs. In no case, however, may this section be construed as
15 authorizing the operation of a junkyard or other salvage or
16 repair business where other requirements of the law have not been
17 met.

18 c. If a junk vehicle has been abandoned on private
19 property, the owner, tenant or other person in control or
20 possession of the property upon which the vehicle has been
21 abandoned may request the vehicle's removal pursuant to Section
22 18.20.030e.

23 18.20.060 Disposition of junk vehicles.

24 a. Upon observation of what appears to be a junk vehicle,
25 the director shall give written notice by personal service or
26 certified mail to any or all offenders described in Section
18.20.050a as well as notice affixed to the vehicle. Notice
affixed to the vehicle shall suffice for subsequent action if
none of the offenders described in Section 18.20.050a can be
located and served within the five-day period. The notice shall
contain:

1. the street address and other information sufficient to identify the location of the vehicle;
2. a statement that the vehicle constitutes a public nuisance and a copy or summary of the relevant code sections;
3. a statement that if the vehicle is not removed from public view within five days from issuance of the notice, the department shall impound and sell or destroy the vehicle at the offender's expense; and

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4. a statement that if the offender can show ability and willingness to make the repairs necessary to convert the junk vehicle into an operable vehicle, application may be made at any time before the five days have expired for a 30-day waiver to make the necessary repairs.

b. Upon expiration of the five-day or thirty-day period where relevant, the director may impound a junk vehicle and sell it at public auction pursuant to the notice provisions of Section 18.20.030 or may have the vehicle privately sold, crushed or otherwise destroyed without further notice in accord with the provisions of Section 18.20.030. If a vehicle is destroyed; the director shall notify the Alaska Department of Public Safety.

18.20.070 Vehicles both junk and abandoned.

In the event that a vehicle is both junk and abandoned, as defined in this chapter, the department may pursue its abatement under either the junk or abandoned vehicle provisions of this chapter or parts of both.

18.20.080 Recovery of costs.

a. All costs of impounding, storing, selling and destroying junk or abandoned vehicles including court costs may be charged or assessed by the City against the vehicle, the registered owner of the vehicle, any person who has acquired legal title or beneficial ownership to the vehicle from or through the registered owner and any person who has violated Section 18.20.020 or Section 18.20.050a.

b. If such vehicle is removed from private real property, any cost of removal not otherwise satisfied shall constitute a lien against such property for the amount of such costs.

18.20.090 Other rights preserved.

Nothing in this chapter shall be construed as limiting the right of any person to operate a lawful junk or storage yard.

18.20.100 Penalty.

A person who violates any provision of this chapter shall be punished under the general penalty section of the Homer Municipal Code (Code Section 1.16.010).

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Effective Date.

All provisions of this chapter shall become effective thirty days from adoption of this ordinance.

CITY OF HOMER

By John P. Calhoun
Mayor

ATTEST:

Kathy Hersel
Acting City Clerk

Reviewed and approved as to form and content:

Phil C. Shealy
Phil C. Shealy, City Manager

A. Robert Hahn
A. Robert Hahn, City Attorney

Date: 11/19/85

Date: _____

First Reading: 11/25/85

Public Hearing: 12/9/85

Second Reading: 12/23/85

Date of Adoption: 12/23/85

Effective Date: 1/23/86

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