

**ORDINANCE NO. 2015-1910**

**AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO REMOVAL OF JUNK VEHICLES FROM PRIVATE PROPERTY, DECLARING JUNK VEHICLES TO BE NUISANCES AND UNLAWFUL, DEFINING JUNK VEHICLES, DESCRIBING THE PROCEDURE FOR ISSUANCE OF NOTICES OF VIOLATION TO THE PROPERTY OWNER AND OWNER OF THE VEHICLE, HEARING, ABATEMENT, IMPOSITION OF CIVIL PENALTIES AND COLLECTION OF PENALTIES, REPEALING AMENDING SECTION 8.28.030, AND ADDING A NEW CHAPTER 8.08 TO THE PACIFIC MUNICIPAL CODE.**

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WHEREAS, the presence of public nuisances has a detrimental affect on the health safety and welfare of the community; and

WHEREAS, the presence of junk or inoperable vehicles on either public or private property within the City present inherent safety and health concerns; and

WHEREAS, the Washington State legislature had adopted RCW 46.55.240, and has required that all local ordinances on the subject of junk vehicles comply with this statute;

WHEREAS, the City now regulates junk vehicles through chapter 8.28 PMC, which is not consistent with RCW 46.55.240; and

WHEREAS, the City desires to adopt a new chapter 8.08, to be consistent with RCW 46.55.240; and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is exempt under WAC 197-11-800(19) as containing no substantive standards affecting the environment; and

WHEREAS, the City Council considered this Ordinance during a regular Council meeting on September 28, 2015; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, ORDAINS AS FOLLOWS:**

Section 1. Section 8.28.030 of the Pacific Municipal Code is hereby amended to read as follows:

**8.28.030 Nuisances affecting peace and safety.** The following are declared to be nuisances affecting public peace and safety:

\* \* \*

~~Q. —“Junk Vehicle” means a motor vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:~~

- ~~1. — Is three years old or older;~~
- ~~2. — Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield or missing wheels, tires, motor or transmission;~~
- ~~3. — Is apparently inoperable; and~~
- ~~4. — Has a fair market value equal only to the value of the scrap in it.~~

~~“Vehicle” means every device capable of being moved upon a roadway and in, upon, or by which any person or property is or may be transported or drawn upon a roadway, and includes, without limitation, automobiles, trucks, trailers, motorcycles and tractors, excepting devices moved by humans or animals’ power or used exclusively upon stationary rails or tracks.~~

~~R. Q.~~ Any violation of development, land use, licensing and public health ordinances.

Section 2. A new Chapter 8.08 is hereby added to the Pacific Municipal Code, which shall read as follows:

## **Chapter 8.08 JUNK VEHICLES**

**Sections:**

- 8.08.010 Purpose.**
- 8.08.020 Definitions.**
- 8.08.030 Exemption.**
  
- 8.08.040 Nuisance declared, violations.**
- 8.08.050 Enforcement.**
- 8.08.060 Investigation and notice of violation.**
- 8.08.070 Time to comply.**
- 8.08.080 Hearing.**
- 8.08.090 Municipal Court Order.**
- 8.08.100 Removal and Disposal – Costs.**
- 8.08.110 Penalties.**

## **8.08.120 Additional relief.**

**8.08.010 Purpose.** The purpose of this Chapter is to provide for the abatement and removal of junk vehicles on private property as provided for in RCW 46.55.240. Abatement is necessary to preserve and enhance the aesthetic character of the City's neighborhoods, protect property values and rights and to reduce environmental health, and safety problems associated with junk vehicles.

**8.08.020 Definitions.** For the purposes of this Chapter, the following definitions apply:

A. "Junk Vehicle" is any vehicle which is certified under RCW 46.55.230 as meeting at least three of the following criteria:

1. Is three years old or older;
2. Is extensively damaged, such damage including, but not limited to, any of the following:
  - a. broken window or windshield
  - b. flat tires
  - c. missing tires, motor or transmission
  - d. rusted exterior; and
  - e. leaking oil or gasoline.
3. Is apparently inoperable, meaning that a vehicle does not appear to comply with requirements for vehicles used on public streets with regard to brakes, lights, tires, safety glass or other safety equipment; and
- 4.. Has an approximate fair market value equal only to the approximate value of the scrap in it.

B. "Enforcement Officer" means the City Community Development Manager, his or her designee, representative or a City of Pacific law enforcement official.

C. "Vehicle" shall include, but not be limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on the public right-of-way, and shall also include parts of Vehicles, but shall not include devices moved by human or animal power, or used exclusively upon stationary rails or tracks.

## **8.08.030 Exemptions.**

The provisions of this Chapter shall not apply to:

A. A vehicle or part thereof that is completely enclosed within a building in a lawful manner, or otherwise parked legally on the property so as not to be visible

from adjacent or nearby public property. Temporary tarp garages and carports do not satisfy this exemption;

B. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dismantler or licensed vehicle dealer and is fenced in accordance with the provisions of RCW 46.80.130.

C. A vehicle enclosed in an opaque auto cover specifically designed to completely shield the vehicle from view as long as the vehicle is parked in a lawful manner on private property. The cover must be in good condition and must be replaced if it is torn, weather-beaten, or acquires any other defects. Tarps and makeshift covers do not meet the requirement. This exemption will apply to only two vehicles per legal lot. Vehicles stored on vacant or undeveloped land are not exempted by this subsection C.

#### **8.08.040 Nuisance declared, violations.**

A. The storage or retention of junk vehicles on private property is declared a public nuisance which is subject to the enforcement, removal and abatement procedures in this Chapter and as provided in state law.

B. It shall be unlawful for any person, firm or corporation to retain, place or store junk vehicles on private property, in conflict with or in violation of any of the provisions of this Chapter.

C. Additional Violations. In addition to the above, it is a violation of this Chapter to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;
2. Fail to comply with any of the requirements of this Chapter, including any requirement of the City's codes and state codes adopted by reference herein.

#### **8.08.050 Enforcement.**

A. The Enforcement Officer shall have the authority to enforce this chapter. The Enforcement Officer may call upon the building, fire, planning and community development or other appropriate City departments to assist in enforcement.

B. This Chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. It is the intent of this Chapter to place the obligation of complying with its requirements upon the property owner, occupier of the property, owner of the junk vehicle and/or other person responsible for the storage or retention of junk vehicles within the scope of this Chapter.

D. No provision of or any term used in this Chapter is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

### **8.08.060 Investigation and notice of violation.**

A. Investigation. The Enforcement Officer shall investigate the premises which he/she reasonably believes does not comply with the standards and requirements of this Chapter.

B. Notice of Violation. If, after investigation, the Enforcement Officer determines that the standards or requirements of this Chapter have been violated, the Enforcement Officer shall serve a notice of violation upon the property owner, tenant, vehicle owner, or other person responsible for the condition. The notice of violation shall contain the following information:

1. Name and address of the person(s) to whom the citation is issued;
2. The location of the subject property by address or other description sufficient for identification of the subject property;
3. A description of the vehicle and its location;
4. A separate statement of each standard, code provision or requirement violated, and the reasons for which the City deems the junk vehicle(s) to be a public nuisance in violation of this Chapter;
5. What corrective action, if any, is necessary to comply with the standards, code provisions or requirements;
6. A reasonable time for compliance;
7. A statement that if the person(s) to whom the notice of violation is issued fails to complete the corrective action by the date required, the City Enforcement Officer or its designee shall remove, impound and dispose of the vehicle, and will assess all costs of administration and removal against the owner of the property upon which the vehicle is located or otherwise attempt to collect such costs against the owner of the vehicle;
8. A statement that either the property owner of record on which the vehicle is located or the last registered owner of record of the vehicle may request a hearing and that if no hearing is requested, that the vehicle will be removed. At the hearing, the property owner may appear and deny

responsibility for the presence of the junk vehicle on the land, with his/her reasons for denial; and

9. A statement that if a request for a hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or parts thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt 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 of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

C. Service. The notice of violation shall be served on the last registered owner of record of the junk vehicle and the property owner of record by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the Enforcement Officer makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

1. Publishing the notice once each week for two consecutive weeks in the City's official newspaper; and

2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address as shown on the last equalized assessment roll and to the last registered and legal owner of record of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

D. Posting. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

E. Amendment. A notice or order may be amended at any time in order to:

1. Correct clerical errors; or

2. Cite additional authority for a stated violation.

F. Withdrawal. The City may choose to withdraw a notice of violation at any time, without prejudice to the City's ability to reissue it, if a certificate of compliance has not been obtained for the specific violations.

### **8.08.070 Time to comply.**

A. Determination of Time. When calculating a reasonable time for compliance, the Enforcement Officer shall consider the following criteria:

1. The type and degree of violation cited in the notice;
2. The stated intent, if any, of a responsible party to take steps to comply;
3. The procedural requirements for obtaining a permit to carry out corrective action;
4. The complexity of the corrective action, including seasonal considerations, and
5. Any other circumstances beyond the control of the responsible party.

B. A copy of the notice may be recorded against the property with the appropriate County auditor. The Enforcement Officer may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property.

#### **8.08.080 Hearing.**

A. The property owner or vehicle owner or other person responsible for the violation may request a hearing by submitting such request within 15 calendar days after service of the notice of violation. When the last day of the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the next business day. The request shall be in writing, and filed with the City Clerk. Upon receipt of the hearing request by the Enforcement Officer, he/she shall forward the request to the municipal court judge.

B. If a request for a hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt 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 of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

C. 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, with the reasons for denial. If it is determined that the vehicle was placed on the property without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence, then the City shall not assess costs of administration or costs of removal against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner cannot be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.650. The City may also provide for the

payment to a tow truck operator or wrecker as part of a neighborhood revitalization program.

### **8.08.090 Municipal Court Order.**

- A. At or after the hearing, the municipal court judge may:
1. Sustain the notice of violation and require that the vehicle be removed and disposed of at the request of the Enforcement Officer after the date of issuance of the Court's Order, and that the junk vehicle be disposed of by a licensed vehicle wrecker or tow truck operator, with notice to the Washington State Patrol and the department of licensing that the vehicle has been wrecked;
  2. Withdraw the notice of violation;
  3. Continue the review to a date certain for receipt of additional information;
  4. Modify the notice of violation, which may include an extension of the compliance date, and/or determine that the owner of the property is not responsible for the costs of removal, pursuant to subsection C above; and/or
  5. Assess the costs of administration and/or removal of the vehicle or parts thereof as provided in this section.
- B. Unless mutually agreed to by the appellant and the Court, the order of the Court shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to such person at his/her last known address as determined by the Enforcement Officer within 15 calendar days following the conclusion of testimony and hearings and the closing of the record. Proof of service shall be made by a written declaration by the person effecting the service, declaring the time and date of service and the manner by which service was made.
- C. The Municipal Court, in affirming the Enforcement Officer's Notice of Violation and Abatement, may assess administrative costs or costs related to the abatement of the violators' vehicle. The Court may also order the refund of hearings fees to parties deemed not responsible for the violation.
- D. If it is determined at the hearing that the Vehicle was placed on the land without the consent of the Landowner and that he or she has not subsequently acquiesced in its presence, then the Municipal Court's order 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 the cost from the Landowner.

### **8.08.100 Removal and Disposal - Costs.**

A. Commencing 45 calendar days after service of the Order as provided in Section 8.08.090, the Enforcement Officer shall supervise the removal and disposal of the Vehicle or part thereof pursuant to RCW 46.55.230. The Enforcement Officer will provide notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been processed in accordance with the laws of the State of Washington.

B. The City's costs related to the removal of the junk vehicle may be collected from the registered owner of the vehicle(s) if the identity of the owner can be determined, unless the owner, in the transfer of ownership, has complied with RCW 46.12.101. Alternatively, the cost may be collected from the owner of the property on which the vehicle has been stored.

### **8.08.110 Penalties.**

A. Abandonment of Junk Vehicle on Property. The City hereby adopts RCW 46.55.230(6) by reference, as if fully set forth herein. A copy of this statute is attached hereto and incorporated herein by reference.

B. Civil Penalties.

1. In addition to any other sanction or remedial procedure which may be available, any person, firm or corporation violating or failing to comply with any of the provisions of this Chapter shall be subject to a cumulative civil penalty in the amount of \$250.00 per day for each violation from the date set for compliance until compliance with the notice of violation is achieved. This penalty may be imposed by the City from the date of issuance of the notice of violation until compliance is achieved. The penalty will be held in abeyance if a hearing is requested under Section 8.08.080 until issuance of the Court's Order, as provided in Section 8.08.090.

2. The penalty imposed by this section may be collected by civil action brought in the name of the City. The Enforcement Officer may notify the City attorney in writing of the name of any person subject to the penalty, and the City attorney may, with the assistance of the Enforcement Officer, take appropriate action to collect the penalty.

### **8.09.120 Additional relief.**

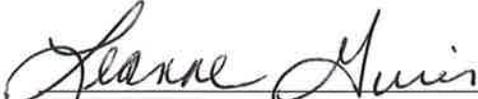
The Enforcement Officer may ask the City Attorney to seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this title when civil penalties are inadequate to effect compliance.

Section 3. Severability. If any portion of this ordinance or its application to any person or circumstances is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remainder of the ordinance or the application of the remainder to other persons or circumstances.

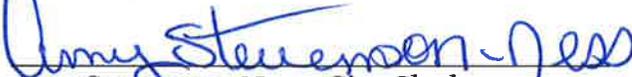
Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the CITY OF PACIFIC this 28<sup>TH</sup> day of September, 2015.

CITY OF PACIFIC

  
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Leanne Guier, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Amy Stevenson-Ness, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

  
\_\_\_\_\_  
Carol A. Morris

**46.55.220** << 46.55.230 >> **46.55.240**

**RCW 46.55.230**

**Junk vehicles — Removal, disposal, sale — Penalties —  
Cleanup restitution payment.**

(1)(a) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction, or any employee or officer of a jurisdictional health department acting pursuant to RCW **70.95.240**, or any person authorized by the director shall inspect and may authorize the disposal of an abandoned junk vehicle. The person making the inspection shall record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only to the approximate value of the parts.

(b) A tow truck operator may authorize the disposal of an abandoned junk vehicle if the vehicle has been abandoned two or more times, the registered ownership information has not changed since the first abandonment, and the registered owner is also the legal owner.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall mail a notice to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to arrange for the removal of the vehicle.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner may immediately dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(6) It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law enforcement agency or

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jurisdictional health department investigating the incident.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

(8) A person complying in good faith with the requirements of this section is immune from any liability arising out of an action taken or omission made in the compliance.

[2002 c 279 § 13; 2001 c 139 § 3; 2000 c 154 § 4; 1991 c 292 § 2; 1987 c 311 § 19; 1985 c 377 § 23.]

**Notes:**

**Severability -- 2000 c 154:** See note following RCW **70.93.030**.

[46.55.230](#) << [46.55.240](#) >> [46.55.300](#)

## RCW 46.55.240

### Local ordinances — Requirements.

(1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(d) The hearing specified in RCW [46.55.120](#)(2) and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW [46.12.650](#), or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

(3) Ordinances pertaining to public nuisances shall contain:

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(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt 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;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that 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 (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW **46.80.130**;

(d) A provision that 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 or her reasons for the 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 or she 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 the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or 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 with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or 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.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

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[2010 c 161 § 1122; 2010 c 8 § 9064; 1994 c 176 § 2; 1991 c 292 § 3; 1989 c 111 § 17; 1987 c 311 § 20; 1985 c 377 § 24.]

**Notes:**

**Reviser's note:** This section was amended by 2010 c 8 § 9064 and by 2010 c 161 § 1122, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW **1.12.025(2)**. For rule of construction, see RCW **1.12.025(1)**.

**Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161:** See notes following RCW **46.04.013**.

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