

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 637

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO ABATEMENT OF JUNK VEHICLES ON PRIVATE PROPERTY AND ADDING CHAPTER 8.46 TO THE BURIEN MUNICIPAL CODE

WHEREAS, the keeping of junk vehicles increases potential hiding places for rodents and breeding places for mosquitos and other insects;

WHEREAS, the keeping of junk vehicles decreases the sense of order and prosperity in Burien's neighborhoods which may slow down Burien's economic development;

WHEREAS, the keeping of junk vehicles may depress property values in Burien's neighborhoods;

WHEREAS, some property owners have failed to remove junk vehicles from their property even after notice that the keeping of junk on their property is a violation of Burien Municipal Code;

WHEREAS, the City Council wishes to establish procedures consistent with state law for the abatement and removal of junk vehicles from private property;

WHEREAS, by establishing procedures for removal of junk vehicles, the City Council intends to conserve property values in Burien's neighborhoods, enhance the sense of order and prosperity, eliminate hiding places for rodents and breeding places for mosquitos and other insects and improve the health and welfare of the Burien community;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Title. The ordinance codified in this chapter shall be known as the "Junk Vehicle Abatement Ordinance" and may be cited as such.

Section 2. Definitions. For the purposes of this chapter, the following words shall have the following meanings:

- A. "City" means the city of Burien.
- B. "Code enforcement officer" has the same meaning as the term is defined in BMC 1.15.020.
- C. "Impound," for purposes of this chapter, means to take and hold a vehicle in legal custody.
- D. "Apparently inoperable," for purposes of this chapter, means:

1. That the Vehicle is visibly damaged to such an extent as to render it unsafe or illegal for operation on public streets or highways, including but not limited to broken head or tail lights; broken or missing mirrors; deflated or missing tires; missing steering wheel; or
 2. That there is other evidence that it is illegal to operate the Vehicle, such as absence of a valid vehicle license and tabs; or
 3. That there are other conditions demonstrating evidence of the Vehicle's inoperability, including that vegetation has grown inside, around, or on the Vehicle or that rodents or insects appear to be hiding in the Vehicle.
- E. "Junk vehicle" shall have a meaning consistent with its definition in RCW 46.55.010 and shall mean a Vehicle that meets at least three of the following four 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 or missing wheels, tires, motor, or transmission;
 3. Is apparently inoperable;
 4. Has an approximate fair market value equal only to the approximate value of the scrap in it.
- F. "Vehicle," for purposes of this chapter, means every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and every trailer in, upon, or by which persons or property may be transported or drawn upon a public highway. The term "Vehicle" shall include, but not be limited to, automobiles, motorcycles, trucks, buses, and motorized recreational vehicles. The following shall not be considered a "Vehicle" for purposes of this chapter: an electric personal assistive mobility device; a bicycle; a power wheelchair; or a golf cart.

Section 3. Abatement and removal of junk vehicles from private property.

- A. All junk vehicles placed or situated upon private property within the city limits are declared public nuisances to be abated in the manner set forth in this chapter; provided, however, that this chapter shall not apply to:
1. 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

2. 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 the provisions of RCW 46.80.130.
- B. A code enforcement officer is authorized to issue a violation citation upon reasonable belief that a condition prohibited by this chapter exists.
 - C. The violation citation shall be issued to the property owner of record, as shown on the last equalized assessment roll, upon whose property the Vehicle is located. In addition to the property owner of record, the violation citation shall be issued also to the last registered and legal owner of record of such Vehicle unless the Vehicle is in such condition that identification numbers are not available to determine ownership.
 - D. The violation citation shall be served by mailing a copy of said notice to said property owner of record and the last registered owner of record of the Vehicle by certified mail with five-day return receipt requested.
 - E. The violation citation shall contain substantially the following information:
 1. The name and address of the person 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 and the reasons for which the city deems it to be a public nuisance in violation of this chapter;
 4. A description of the corrective action necessary to eliminate the violation;
 5. The date by which the corrective action must be completed to avoid a hearing before the Hearing Examiner;
 6. The date and time of the hearing before the Hearing Examiner;
 7. A statement that the person(s) to whom the notice is issued may avoid the hearing before the Hearing Examiner by completing the corrective action to be taken by the date set forth in the citation.
 8. A statement that if the owner of the property on which the Vehicle is located wishes to deny responsibility for the presence of the Vehicle on his/her property, said property owner may either appear in person or present a written statement explaining his/her reasons for denying responsibility and submit said written statement in time for consideration at the hearing.

9. A statement that if the persons to whom the notice is issued fail to complete the corrective action by the date required and set forth in the citation and has failed to attend the hearing or timely submit a written statement explaining his/her reasons for denying responsibility, the City or its designee will remove, impound and dispose of the Vehicle and will assess all costs of administration and removal of the Vehicle against the property upon which the Vehicle is located and attempt to collect the cost of any abatement proceedings by any other lawful means, including referral to a collection agency.

Section 4. Hearing. Hearings on contested violation citations shall be held in accordance with the provisions in BMC 1.15.150 (Contested Hearing – Procedure) and the Hearing Examiner shall have the powers set forth in Chapter 1.15 BMC. The owner of the property 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 property. If the Hearing Examiner determines at the hearing that the Vehicle was placed on the land without the consent of the property owner and that he/she has not subsequently acquiesced in its presence, the City 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 property owner. If a hearing is requested, after the hearing is 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.

Section 5. Order of the Hearing Examiner – Violation. The order of the Hearing Examiner 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 code enforcement officer. Proof of service shall be made by a written declaration under penalty of perjury by the person effecting the service, declaring the time and date of service and the manner by which service was made. The decision of the Hearing Examiner shall be considered final, unless a written Notice of Appeal is filed with a court of competent jurisdiction no later than ten (10) calendar days after issuance of the order of the Hearing Examiner. If no appeal is filed with a court of competent jurisdiction, commencing no earlier than 15 calendar days after issuance of the Hearing Examiner's order, the City's code enforcement officer or other designee of the City Manager may cause the removal and disposal of the Vehicle, or part thereof. For violations found committed, the order of the Hearing Examiner shall include at least the following information:

- (a) that the City is authorized to abate the violation of Chapter 8.46 BMC by having a law enforcement officer request removal of the Vehicle no earlier than 15 calendar days after issuance of the order;
- (b) that at the request of a law enforcement officer, licensed hulk haulers, motor vehicle wreckers or towing service operators may access the property through normal access routes from public streets and alleyways to effect removal and disposal of the Vehicle;
- (c) that 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 46.12.101 or that the costs may be assessed against the owner of the property on which the vehicle is stored;

(d) that the City may pursue collection of abatement costs through a collection agency in addition to filing a lien; and

(e) that there is a right to appeal the Hearing Examiner's order, but Notice of Appeal must be filed with a court of competent jurisdiction no later than ten (10) calendar days of issuance of the order.

Section 6. Removal and disposal – Costs –Liens.

- A. After notice has been given of the City's intent to dispose of the vehicle and after the hearing has been held, resulting in authority to remove, the vehicle or part thereof shall be removed at the request of a law enforcement officer and disposed of to a licensed motor vehicle wrecker or hulk hauler with notice to the Washington State Patrol and the Department that the vehicle has been wrecked. Any vehicle or part thereof impounded pursuant to this chapter shall be processed in compliance with state laws and regulations applicable to junk vehicle tow truck operators, hulk haulers and motor vehicle wreckers.
- B. Any disposer under contract of the City for the impounding of vehicles shall comply with any administrative regulations relative to the handling and disposing of vehicles as may be promulgated by the City.
- C. 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 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored, subject to the requirements of this chapter.
- D. 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.
- E. In addition to, or in lieu of, any other state or local provisions for the recovery of costs, the City may, after removal of a vehicle under this chapter, file for record with the county auditor to claim a lien for the cost of removal and any and all outstanding fines and collection costs, which shall be in substance in accordance with the provision covering mechanics' liens in Chapter 60.04 RCW, and said lien may be foreclosed in the same manner as such liens.

Section 7. Relationship to other chapters. To the extent that there is any ambiguity or conflicts with the more general provisions in Chapter 8.45 BMC or Chapter 1.15 BMC with regard to nuisances or code enforcement procedures, the provisions of this chapter shall prevail in enforcement and abatement of violations of this chapter.

Section 8. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 9. Effective Date. This Ordinance shall take effect five days after publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT
A REGULAR MEETING THEREOF THIS 4TH DAY OF APRIL, 2016.

CITY OF BURIEN

/s/ Lucy Krakowiak, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Soojin Kim, City Attorney

Filed with the City Clerk: April 4, 2016

Passed by the City Council: April 4, 2016

Ordinance No.: 637

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