

ORDINANCE NO. 1362

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S TRAFFIC CODE; AMENDING SECTION 10.12 TO THE GIG HARBOR MUNICIPAL CODE TO ADOPT BY AMENDING THE DEFINITION OF AN ABANDONED VEHICLE AND ADDING THE VIOLATION OF ABANDONING A VEHICLE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Gig Harbor Municipal Code (GHMC) 10.12.010 defines an abandoned vehicle as "...any vehicle left within the limits of any street or alley or on the property of another without the consent of the owner of such property for a period of 24 hours or longer, except that a vehicle shall not be deemed abandoned if its owner or operator is unable to remove it from the place where it is located and so notifies the chief of police"; and

WHEREAS, there is no corresponding violation for leaving a vehicle abandoned as described above; and

WHEREAS, the City of Gig Harbor desires to amend GHMC 10.12 in order to allow the City to enforce violations of vehicles and unattended trailers that are on occasion left abandoned upon city streets, and

WHEREAS, the City desires to clarify the definition of an abandoned vehicle, Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Section 10.12 of the Gig Harbor Municipal Code is hereby amended to read as follows:

Chapter 10.12 **ABANDONED AUTOMOBILES**

Sections:

- 10.12.010 Definitions.**
- 10.12.015 Abandoned vehicle or automobile hulk – Violation.**
- 10.12.020 Owner presumed responsible.**
- 10.12.030 Tow truck operator appointment.**
- 10.12.040 Report to State Patrol.**
- 10.12.050 Towing – Lien.**
- 10.12.060 Towing – Notice of custody.**
- 10.12.070 Sale of unclaimed vehicles.**
- 10.12.080 Nuisance – Disposal without notice.**
- 10.12.090 Vehicle on private property – Abatement.**
- 10.12.100 Exceptions.**
- 10.12.110 Violation – Penalty.**

10.12.010 Definitions.

A. An “abandoned vehicle” for the purpose of this chapter means any vehicle left within the limits of any street or alley or on the property of another without the consent of the owner of such property for a period of 24 hours or longer, except that a vehicle shall not be deemed abandoned if its owner or operator is unable to remove it from the place where it is located and so obtains authorization from the Chief of Police to leave the vehicle in such location until it can reasonably be removed. A trailer that is not connected to a vehicle left within the limits of any street or alley or on the property of another without the consent of the owner of such property shall also be considered an abandoned vehicle.

B. An “abandoned automobile hulk” for the purpose of this chapter means 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. (Ord. 122 § 1, 1969).

10.12.015 Abandoned vehicle or automobile hulk – Violation

It shall be unlawful to leave an abandoned vehicle or abandoned automobile hulk within the city limits in violation of this chapter.

10.12.020 Owner presumed responsible.

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 disposing of such vehicle or automobile

hulk. A registered owner who has complied with the transfer requirements established by RCW 16.49A.420 shall be relieved of liability under this section. (Ord. 122 § 2, 1969).

10.12.030 Tow truck operator appointment.

The mayor and council may appoint any tow truck operator or operators engaged in removing and storing abandoned motor vehicles for the purpose of disposing of certain abandoned vehicles and automobile hulks. Such appointment shall be contingent on the appointee making such reports as the mayor and council may reasonably from time to time require, and on the posting of a surety bond in the amount of \$1,000 to compensate the owner of any vehicle that has been unlawfully sold as a result of any negligence or misconduct of the appointee. Such appointment shall be at the pleasure of the mayor and council. (Ord. 122 § 3, 1969).

10.12.040 Report to State Patrol.

It shall be the duty of the police department to report to the Chief of the Washington State Patrol all vehicles or automobile hulks found abandoned in the city. The same shall thereafter be placed in the custody of the tow truck operator appointed under this chapter. (Ord. 122 § 4, 1969).

10.12.050 Towing – Lien.

Said tow truck operator shall take custody of such abandoned vehicle or automobile hulk, remove the same to his established place of business, and such tow truck operator shall have a lien upon said vehicle or hulk for services performed in the towing and storage of the same, and shall also have a claim against the last registered owner of such vehicle for services provided in towage and storage of the same, not to exceed the sum of \$100.00. A registered owner who has complied with the transfer requirements established by RCW 16.49A.420, shall be relieved of liability under this section. (Ord. 122 § 5, 1969).

10.12.060 Towing – Notice of custody.

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 Motor Vehicles 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 by registered mail with return receipt requested, to their last known address appearing on the records of the Department of Motor Vehicles, and shall send copies of such notice to the Chief of the Washington State Patrol and to the Department of Motor Vehicles. Such notice shall contain a description of the vehicle or hulk including its license

number and 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 same remains unpaid. (Ord. 122 § 6, 1969).

10.12.070 Sale of unclaimed vehicles.

A. If, after the expiration of 15 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 shall conduct a sale of the same at public auction after having first published notice of the date, time and place of the same in a newspaper of general circulation in Pierce County not less than three days before the date of such auction.

B. Such abandoned vehicle or automobile hulk shall be sold to the highest bidder at such auction. The proceeds of such sale, after deducting the towing and storage charges due the tow truck operator, including the cost of sale, which shall be computed as in a sheriff's sale, shall be paid into the Gig Harbor city treasury.

C. If the amount bid at the auction is insufficient to compensate the tow truck operator, he shall be entitled to assert a claim for any deficiency, not to exceed \$100.00, against the last registered owner of such vehicle or automobile hulk; provided, that a registered owner who has complied with the transfer provisions established by RCW 16.49A.420, shall be relieved of liability under this section. (Ord. 122 § 7, 1969).

10.12.080 Nuisance – Disposal without notice.

Notwithstanding any provision herein contained, an abandoned vehicle or automobile hulk which is of a model year 10 or more years prior to the calendar year in which such vehicle is stored may be declared a public nuisance by the Chief of Police, provided the sheriff of Pierce County joins in such declaration, and may be disposed of by the tow truck operator without notice of sale. (Ord. 122 § 8, 1969).

10.12.090 Vehicle on private property – Abatement.

A. An abandoned vehicle or automobile hulk on private property shall not be removed therefrom, unless by express consent of the owner of such property, except as provided in this section. The city clerk shall give 10 days' written notice to the property owner of record, and to the last registered owner of record if such be known or obtainable, that a public hearing may be requested before the city council and that if no hearing is requested, the vehicle or automobile hulk will be removed. If no hearing is requested within 10 days a tow truck operator

appointed under this chapter shall remove the same at the request of the chief of police. The same shall thereafter be disposed of as above provided in this chapter.

B. If a request for hearing is received, a notice giving the time, location and date thereof, on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed by registered mail, return receipt requested, to the owner of the land 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. The owner of the land on which the vehicle is located shall appear in person at the hearing or present a written statement prior thereto, and deny responsibility for the presence of the vehicle on his 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 he has not subsequently acquiesced in its presence, then the city council shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise collect the same from said owner.

D. After such hearing has been held, if requested, the vehicle or part thereof shall, at the request of the chief of police, be removed by a tow truck operator appointed under this chapter and the same shall thereafter be disposed of as above provided in this chapter. (Ord. 122 § 9, 1969).

10.12.100 Exceptions.

This chapter shall not apply to the following:

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 or licensed vehicle dealer, fenced according to the provisions of RCW 46.80.130. (Ord. 122 § 10, 1969).

10.12.110 Violation – Penalty.

Violation of any portion of this chapter is an infraction and subject to a penalty of \$100.00 as provided in GHMC 1.16.010(D) in addition to the other costs provided in this chapter. (Ord. 460 § 16, 1985).

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. 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.

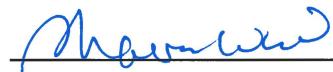
PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 15 day of April , 2017.

CITY OF GIG HARBOR



Mayor Jill Guernsey

ATTEST/AUTHENTICATED:



Shawna Wise, Assistant City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Angela G. Summerfield

FILED WITH THE CITY CLERK: 03/22/17
PASSED BY THE CITY COUNCIL: 04/10/17
PUBLISHED: 04/13/17
EFFECTIVE DATE: 04/18/17
ORDINANCE NO: 1362