

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE ABATEMENT OF JUNK VEHICLES AND REPEALING AND RE-ENACTING CHAPTER 11.76 OF THE KIRKLAND MUNICIPAL CODE.

WHEREAS, the City of Kirkland has determined that an ordinance establishing procedures for the abatement and removal of junk vehicles or parts thereof from private property is in the public interest; and

WHEREAS, RCW 46.55.240(2) provides that a city may adopt an ordinance establishing procedures for the abatement and removal of junk vehicles or parts thereof from public and private property;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Chapter Repealed. Chapter 11.76 of the Kirkland Municipal Code is hereby repealed.

Section 2. There is hereby created a new Chapter of the Kirkland Municipal Code to be designated KMC 11.76, entitled "Junk Vehicles" and to read as follows:

11.76.010 Purpose.

This chapter establishes procedures for the abatement and removal of junk vehicles, as public nuisances, from private property, pursuant to RCW 46.55.240.

11.76.015 Definition of director.

"Director" means Kirkland's Director of Planning and Community Development, the Chief of Police, or either of their designees.

11.76.020 Definition of junk vehicle.

"Junk vehicle" means a vehicle certified by Notice of Violation and Corrective Order under KMC Section 11.76.030 as meeting at least three of the following requirements:

- A. Is three years old or older;
- B. 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;
- C. Is apparently inoperable; or,
- D. Has a fair market value equivalent only to the approximate value of the scrap in it.

11.76.030 Notice of violation and order to correct – Certification of vehicles as junk.

A. Whenever the Director, or the Director's designee, determines that a vehicle, vehicles, or parts thereof are junk vehicles, a Notice of Violation and Order to Correct shall be served upon the owner of the property upon which the vehicle is located and the last registered owner of the vehicle (unless the vehicle is in such condition that identification numbers are not available to determine ownership or the owner of the land has denied the certifying individual entry to the land to obtain the vehicle identification number). The Notice of Violation and Order to Correct shall:

1. Separately identify each vehicle and certify that each vehicle is a "junk vehicle" as defined in Section 11.76.020; and
2. State that the vehicle must be removed and establish a date, at least 15 days from the day the Notice is served or mailed, for compliance.
3. Clearly denote the City's authority to impound.

B. The Notice of Violation and Order to Correct shall be served either by (1) personal service; or (2) by certified mail with a five-day return receipt requested.

C. Whenever possible, a copy of the Notice of Violation and Order to Correct shall be posted at a conspicuous place on the property.

D. The Notice of Violation and Order to Correct shall state that a public hearing may be requested before the City Hearing Examiner and that if no hearing is requested within 15 days from the date of the postmark of the Notice or personal service of the Notice, the junk vehicle will be removed.

E. If a request for hearing is received within 15 days of the postmark, a Notice of Hearing giving the time, location and date of such hearing on the question of abatement and removal of the vehicle, vehicles 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 each vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership or the owner of the land has denied the certifying individual entry to the land to obtain the vehicle identification number.

11.76.040 Exceptions.

This chapter shall not apply to a vehicle, vehicles, or parts thereof that:

- A. Are completely enclosed within a building in a lawful manner where they are not visible from the street or other public or private property; or,
- B. Are 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.

11.76.050 Hearings.

Hearings under this chapter shall be heard by the City Hearing Examiner. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that the vehicle, vehicles or vehicle parts are junk vehicles subject to abatement. The decision of the Hearing Examiner may be appealed to the Kirkland Municipal Court for final judgment.

11.76.060 Determination of responsibility.

A. 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 may deny responsibility for the presence of the vehicle on the land stating the reason for such denial.

B. If it is determined at the hearing that the vehicle was placed on the land without consent of the land owner and that the land owner has not subsequently acquiesced in its presence, then costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located nor otherwise be collected from the land owner.

C. Nothing in this chapter shall relieve the property owner from any civil penalties which may accrue from any zoning code violation related to the improper placement, parking, or storage of vehicles or parts thereof.

11.76.070 Abatement and removal.

After a hearing has been held, if requested consistent with this chapter, or after the time for compliance has passed, if no hearing has been requested, the vehicle, vehicles, or parts thereof shall be removed at the request of the Director or the Director's designee. The vehicle, vehicles, or parts thereof so removed shall be disposed of at a licensed vehicle wrecker with notice to the Washington State Patrol and to the Department of Licensing that the vehicle has been wrecked.

11.76.080 Costs of removal and disposal – Recovery.

The costs of removal and disposal shall 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 complied with RCW 46.12.101, or against the owner of the property on which the vehicle is stored, subject to the provisions of KMC 11.76.060.

11.76.090 Subsequent violation – Misdemeanor.

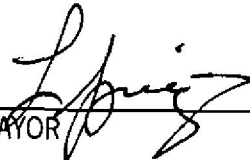
Any subsequent violations of this chapter shall be subject to the abatement procedures provided for herein and, in addition, any person receiving subsequent Notices of Violation and Corrective Orders shall be guilty of a misdemeanor.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

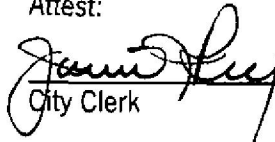
Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 6th day of June, 2000.

Signed in authentication thereof this 6th day of June, 2000.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

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