

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 18-0461**

**AN ORDINANCE OF THE CITY OF KENMMORE,
WASHINGTON; RELATING TO THE ABATEMENT OF
JUNK VEHICLES; AMENDING SECTION 1.20.010 AND
CHAPTER 8.25 OF THE KENMORE MUNICIPAL CODE;
AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, RCW 46.55.240 regulates the City's authority to enact an ordinance relating to the abatement and removal as public nuisances of junk vehicles or parts thereof from private property; and

WHEREAS, in Chapter 8.25 of the Kenmore Municipal Code, the City Council has enacted regulations and procedures for the abatement and removal as public nuisances of junk vehicles from private property; and

WHEREAS, the City Council has determined that it is necessary to amend Chapter 8.25 of the City code for consistency with RCW 46.55.240;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 1.20.010 of the Kenmore Municipal Code is amended to read as follows:

1.20.010 Purpose.

The purpose of this chapter is to establish an efficient system of enforcing *City regulations* that will enable *violations* to be promptly resolved wherever possible, while providing both appropriate penalties and a full opportunity for alleged violators to have a hearing to contest the *violations*. This chapter shall apply to all *regulations* as defined in KMC 1.20.020, except that this chapter shall not apply to junk vehicle regulations, which shall be governed by Chapter 8.25 KMC. In addition to any other penalty or remedy provided for in this code, a *violation* of any *regulation* may be prosecuted as a criminal *violation* at the *City's* discretion, pursuant to KMC 1.15.010.

Section 2. Amendment. Chapter 8.25 of the Kenmore Municipal Code is amended to read as follows:

8.25.010 Purpose.

The purpose of this chapter is to establish procedures for the abatement and removal of *junk vehicles* or parts of *junk vehicles*, as a public nuisance, from private property pursuant to RCW 46.55.240.

8.25.020 Junk Vehicle - Definition.

“Junk vehicle” means any vehicle that meets at least three of the following requirements:

- A. Is three years old or older;
- B. Is extensively damaged, including but not limited to: a broken window or windshield, or missing wheels, tires, motor or transmission;
- C. Is apparently inoperable; or
- D. Has an approximate fair market value equal only to the approximate value of the scrap in it.

8.25.030 Public Nuisance – Exceptions.

A. Public Nuisance. It shall be unlawful and a public nuisance to park, store, abandon or retain a *junk vehicle* on private property, where the *junk vehicle* is visible from a public street, right-of-way, Lake Washington, Sammamish River, or any public or private ingress/egress easement. A *junk vehicle* that is in violation of this section shall be subject to abatement and removal in accordance with the procedures stated in this chapter, in addition to any other remedy or penalty provided for in this code.

B. Exceptions. This chapter shall not apply to a vehicle or part thereof which is: (1) 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) 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 in accordance with RCW 46.80.130.

8.25.040 Certification.

The city manager or the city manager’s designee (the Certifying Individual), may inspect and certify that a vehicle meets the requirements to be a *junk vehicle*. The certification shall be in writing and shall record the make and vehicle identification number and license number of the vehicle if available. The Certifying Individual shall verify that the approximate value of the *junk vehicle* is equivalent only to the approximate value of the parts, and describe the damage to the vehicle or the missing equipment or vehicle parts, as applicable, to establish that KMC 8.25.020(B) and/or (D) are satisfied.

8.25.050 Abatement and Removal – Notice.

A. If the Certifying Individual determines that a vehicle, or part of a vehicle, is a *junk vehicle* in violation of this chapter, the Certifying Individual shall provide notice of the determination to the last registered vehicle owner of record and the property owner of record by certified mail with a five (5) day return receipt requested. The notice shall state the City's intent to dispose of the *junk vehicle*, that a hearing may be requested before the *hearing examiner*, and that if no hearing is requested within fifteen (15) days from the date of the notice, the vehicle or vehicle parts shall be removed.

B. If a request for a hearing is received within fifteen (15) days of the date of the notice, a notice stating the time, location and date of the hearing on the question of abatement and removal of the vehicle or vehicle parts as a public nuisance shall be mailed, by certified mail with a five (5) 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. If no request for hearing is received within fifteen (15) days of the date of the notice, then no person properly served may contest the contents of the notice.

8.25.060 Abatement and Removal – Hearing and Decision.

A. The *hearing examiner* shall conduct the hearing on the question of abatement and removal of the vehicle or vehicle parts as a public nuisance. The *City* and the person(s) to whom the notice was issued may participate in the hearing and each party, or its legal representatives, may call witnesses and present evidence and rebuttal. The standards and procedures stated in KMC 1.20.150 shall apply.

B. 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, stating the reason for the denial. If the hearing examiner determines 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 the City shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise collect the cost from the land owner; provided, that nothing in this chapter shall relieve the property owner from any civil penalties which may accrue from any code violation related to the improper placement, parking, or storage of vehicles or parts thereof.

C. The *hearing examiner* shall issue a written decision within ten (10) business days following the conclusion of the hearing. The decision shall contain findings and conclusions based on the record which include a determination of whether the vehicle is a *junk vehicle* in violation of this chapter. Within two (2) business days

of the issuance of the written decision, the *hearing examiner* shall cause a copy of the written decision to be served upon the parties by mail in accordance with KMC 1.20.060(B)(2).

D. The decision of *hearing examiner* shall be final unless the decision is appealed to superior court in accordance with KMC 1.20.210.

8.25.070 Enforcement.

If a person entitled to notice under KMC 8.25.050 does not timely request a hearing, or after a hearing the *hearing examiner* finds that the vehicle is a *junk vehicle* in violation of this chapter, the City may enforce the violation in court. Prior to enforcing the violation in court, the City shall send notice via regular U.S. mail to those persons entitled to notice under KMC 8.25.050(B), informing them that if they do not grant the City permission to enter the property and remove the *junk vehicle(s)*, or parts of vehicles, within ten (10) days of the mailing of the notice, that the City will commence an action to obtain authority to enter the property to abate and remove the *junk vehicle(s)*, or part(s) thereof. The notice shall state that the City is entitled to recover all costs incurred, including but not limited to court costs, filing costs, lien fees, and attorney's fees incurred in the abatement and removal proceedings.

8.25.080 Abatement and Removal.

After notice has been given that the City intends to dispose of the vehicle(s), or part(s) thereof, and after a hearing has been held if requested consistent with this chapter, the vehicle(s) or part(s) thereof shall be removed at the direction of a law enforcement officer or code enforcement officer. The vehicle(s), or part(s) thereof, shall be disposed at a licensed vehicle wrecker, hulk hauler or scrap processor with notice given to the Washington State Patrol and to the Department of Licensing that the vehicle has been wrecked.

8.25.090 Costs of Removal and Disposal.

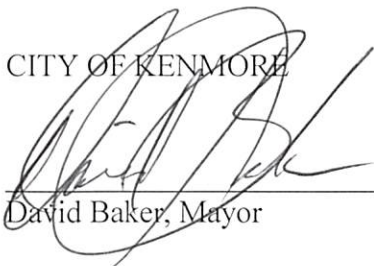
A. The costs of removal and disposal of the vehicle shall be assessed against the last registered owner of the vehicle if the identity of the owner can be determined unless the owner in the transfer of ownership complied with RCW 46.12.650, or against the property and the owner of the property on which the vehicle is stored subject to KMC 8.25.060(B), or both. If both the owner of the vehicle and the property owner are assessed the costs of removal, then liability for the costs shall be their joint and separate obligation.

B. The costs of removal and disposal shall include, but not be limited to, court costs, filing fees, lien fees, attorney's fees, administrative costs, wrecking and towing costs, and all other amounts related to the abatement, removal and disposition of the vehicle(s) or part(s) thereof.

Section 3. Summary Publication and Effective Date. This Ordinance, or a summary thereof consisting of the title, shall be published in the official newspaper of the City. It shall take effect and be in full force five (5) days after the date of the publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 26th DAY OF February, 2018.

CITY OF KENMORE




David Baker, Mayor

ATTEST/AUTHENTICATED:



Kelly Chelm, City Clerk

Approved as to form:



Rod Kaseguma, City Attorney

FILED WITH THE CITY CLERK: 2/26/18
PASSED BY THE CITY COUNCIL: 2/26/18
ORDINANCE NO.: 18-0461
DATE OF PUBLICATION: 3/1/18
EFFECTIVE DATE: 3/6/18