

ORDINANCE NO. 560-A

Introduced by Commissioner Leslie W. Newton

AN ORDINANCE FOR THE IMPOUNDING AND DISPOSITION OF ABANDONED VEHICLES ON PUBLIC PROPERTY, CITY STREETS, HIGHWAYS AND ALLEYS.

THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, unless the context requires otherwise:

(1) "Abandoned" shall mean left unoccupied and unclaimed or in a damaged or dismantled condition upon public property, streets or alleys of the city.

(2) "Chief of Police" includes any authorized law enforcement officer of the city.

(3) "City" shall mean the city of Warrenton.

(4) "Costs" shall mean the expense of removing, storing, and selling an impounded vehicle.

(5) "Owner" shall mean any individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.

(6) "Vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(7) "Private Garage" shall mean a reputable private storage yard, garage, or other storage place selected by the council of the city.

Section 2. Notice of Nuisance.

(1) It shall be the duty of the police department, whenever a vehicle is found abandoned upon the public property, streets, alleys or throughways of the city in the same position for a period of two days, to:

(a) Make a routine investigation to discover the owner and request removal of the vehicle, or

(b) Failing to discover the owner by such a process, to make a diligent inquiry as to the name and address of the owner of the vehicle by examining such vehicle for license number, I.D. number, make, style, and any other information which will aid in the identification of the ownership of the vehicle, and transmitting all available information pertaining to such vehicle to the Department of Motor Vehicles of this state with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with that office.

(c) If the owner is not identified, to place a notice upon the windshield, or some other part of the vehicle easily seen by the passing public.

(2) The notice shall state that the police department will remove and impound the vehicle under the provisions of this ordin-

ance, 24 hours after the time of the posting, unless:

- (a) The owner removes the vehicle; or
- (b) Good cause is shown, satisfactory to the chief of police, why such vehicle should not be removed by the owner or removed and impounded by the city.

Section 3. Declaration of Public Nuisance. The presence of an abandoned motor vehicle in the same position for a period of 48 hours after an owner has been requested to remove it or after notice to remove has been posted upon the vehicle and no person has appeared to show cause why the vehicle should not be removed it is hereby found to create a condition tending to constitute an obstruction to the free and open access of the streets, alleys, highways and throughways of the city and to the use of public property within the city, to reduce the value of private property, to promote blight, deterioration and unsightliness, to invite plundering, to create fire hazards, to create traffic hazards, to constitute an attractive nuisance including a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare and therefore is hereby declared to constitute a public nuisance which may be abated and impounded in accordance with the provisions of this ordinance.

Section 4. Impounding and Abating Nuisance.

(1) It shall be the duty of the police department to remove or to have removed by use of city employes or duly authorized independent contractors doing business as a private garage, a vehicle which shall constitute a nuisance, under the provisions of this ordinance, store the vehicle upon city property, or store the same in a private garage, and dispose of it pursuant to the provisions of this ordinance.

(2) After impoundment, the chief of police shall cause the vehicle to be appraised.

Section 5. Notice of Impoundment and Sale. If the owner is identified, he shall be notified immediately by registered or certified mail that such vehicle is held by the police department of the city. The notice to the owner shall also state:

- (1) The reason for impounding the vehicle.
- (2) The existing costs charged against the vehicle.
- (3) An estimate of future costs, including the cost of advertising the vehicle for sale.
- (4) That unless the owner redeems the vehicle, within 15 days from the day of mailing the notice and pays all the costs, the vehicle will be sold.

Section 6. Low Value Vehicle.

(1) If the vehicle is appraised at \$100.00 or less and the owner is identified, the chief of police shall file with the Department of Motor Vehicles an affidavit describing the vehicle, including the license plates, if any, stating the lo-

cation and appraised value of the vehicle, and stating that the vehicle will be junked or dismantled. The chief of police shall state that notice of intent to junk or dismantle the vehicle has been sent with notification of the location of the vehicle to the owner.

(2) Failure of the owner to reclaim the vehicle within 15 days after the date notification is mailed, shall constitute a waiver of his interest in the vehicle.

(3) Upon completion and forwarding of the affidavit and expiration of the time period stated in subsection (2), the chief of police may, without notice and public auction, dispose of the vehicle and execute a certificate of sale.

(4) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. _____ entitled "An Ordinance for the Impounding and Disposition of Abandoned Vehicles, " I did on the _____ day of _____, 19____, sell to _____ for the sum of \$ _____ cash, the following described personal property, to wit:

(brief description of the property)

And in consideration of the payment of the said sum of \$ _____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 19____.

Note: The city of Warrenton assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the city is limited to the return of the purchase price.

Section 7. Public Sale Notice.

(1) If the vehicle is appraised over \$100.00 and if no claim is made by the owner within the time specified by Section 4(4) of this ordinance, or if the vehicle is valued under \$100.00, but the owner cannot be identified after compliance with Section 2, the chief of police shall cause to be published in a newspaper of general circulation within the city a notice of sale. The notice of sale shall state:

(a) The sale is of abandoned property in the city's possession.

(b) A description of the vehicle, including the type, make, license number, I.D. number, and any other

information which will aid in accurately identifying the vehicle.

(c) The terms of the sale.

(d) The date, time, and place of the sale.

(2) The notice of sale shall be published two times. The first publication shall be made not less than 10 days prior to the date of the proposed sale, and the second shall be made not less than 3 days prior to the date of the proposed sale.

Section 8. Public Sale.

(1) If no claim shall have been made to redeem an impounded vehicle appraised over \$100.00 or appraised under \$100.00 but the owner cannot be identified before the time set for the sale of such vehicle, the chief of police shall hold a sale at the time and place appointed within the view of the vehicle to be sold.

(2) The vehicle shall be sold to the highest and best bidder, providing that if no bids are entered, or those bids which are entered are less than the costs incurred by the city, the chief of police may enter a bid on behalf of the city in an amount equal to such costs.

(3) At the time of payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and the copy thereof filed with the auditor of the city.

(4) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. _____ entitled, "An Ordinance for the Impounding and Disposition of Abandoned Vehicles" and pursuant to due notice of the time and place of sale, I did on the _____ day of _____, 19____, sell at public auction to _____ for the sum of \$ _____ cash, he being the highest and best bidder, and that being the highest and best sum bid therefor, the following described personal property, to wit:

(brief description of the property)

And in consideration of the payment of the said sum of \$ _____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 19____.

Note: The city of Warrenton assumes no responsibility as to the condition of title of the

above described property. In case this sale shall for any reason be invalid, the liability of the city is limited to the return of the purchase price.

Section 9. Redemption Before Sale.

(1) An owner may redeem a vehicle impounded under the provisions of this ordinance, before a sale or disposition has taken place, by applying to the police department, whereupon he shall:

(a) Submit evidence of his ownership or interest in the vehicle, satisfactory to the chief of police, that such claim is rightful, and

(b) Pay the costs due and owing at the time the application to redeem is made.

(2) Upon compliance with subsection (1) of this section, the chief of police shall execute a receipt for the owner and cause the vehicle to be returned to him.

Section 10. Sale and Proceeds.

(1) Upon a sale being consummated, the chief of police shall deliver the vehicle and the certificate of sale to the purchaser. The sale and conveyance shall be without redemption.

(2) The proceeds of a sale shall be applied:

(a) To the payment of costs incurred by the city, and

(b) Then for such services as may be rendered by a private garage or independent contractor, and

(c) The balance, if any, shall be transferred to the auditor of the city to be credited to the general fund.

Section 11. Application. This ordinance shall apply to all abandoned vehicles now in the possession of the city as well as to abandoned vehicles that are hereafter impounded.

Section 12. Charges. In the enforcement and execution of the provisions of this ordinance by the employes of the city of Warrenton, the chief of police shall charge and collect \$15.00 for towing and \$2.00 per day for storage.

Section 13. Private Garage. Where a private garage is utilized, the council shall also establish reasonable fees for such services by resolution, with the following conditions:

(1) The City shall not be liable for services rendered by a private garage from any source other than such amounts as may be collected from the owner on redemption, or from a purchaser upon sale, after the city shall have deducted its expenses, unless the city shall be the purchaser of the vehicle.

(2) No lien shall be created by this ordinance in favor of the private garage upon the vehicle for such services.

(3) The vehicle shall not be released from the private garage except upon a receipt, signed by the chief of police, proffered by the purchaser.

Section 14. Interpretation. Where the conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by other provisions of this ordinance or in any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

Section 15. Severability. The provisions of this ordinance are severable. If any section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 16. Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed and specifically those sections of Ordinance No. 325-A found at Chapter 6.6 of the General Ordinances of the City of Warrenton dealing with the sale and disposition of motor vehicles. The remaining portions of Ordinance No. 325-A which deal with bicycles and other personal property are not affected by the adoption of this ordinance.

Passed by the City Commission of the City of Warrenton this 19 day of July, 1971.

Approved by the Mayor of the City of Warrenton this 19 day of July, 1971.



Mayor

ATTEST:



Auditor and Police Judge