

First Reading: 11/07/18  
Second Reading: 12/04/18

TOWN COUNCIL OF THE TOWN OF GREENWOOD

AN ORDINANCE AMENDING SECTION D, SUBSECTION 8 OF THE GENERAL ORDINANCES OF THE TOWN OF GREENWOOD BY UPDATING “AN ORDINANCE PROHIBITING THE MAINTENANCE OF DISMANTLED OR INOPERABLE MOTOR VEHICLES ON ANY PROPERTY IN THE TOWN OF GREENWOOD, CREATING EXCEPTION THEREFROM, AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF” TO UPDATE THE ENFORCEMENT PROCEDURES AND TO REGULATE ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY

**WHEREAS**, Section 29(a)(2) of the Greenwood Town Charter authorizes the Town to “provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;”

**WHEREAS**, Section 29(a)(11) of the Greenwood Town Charter authorizes the Town to “define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health, or welfare;”

**WHEREAS**, the maintaining of abandoned or dismantled or inoperable motor vehicles creates the possibility that such motor vehicles may be used for unlawful purposes, which tend to impede traffic in the streets or interfere with the enjoyment of, and reduce the value of, private property, may invite plundering, create fire hazards, become a haven for vermin, create other safety and health hazards to children and adults, interfere with the comfort and well-being of the public, and create, extend, and aggravate urban blight;

**WHEREAS**, in the opinion of the Town Council of the Town of Greenwood, it is necessary and in the best interest of the public health, safety, and welfare of the residents and property owners of the Town to enact an ordinance which will eliminate the keeping or storing of dismantled or inoperable motor vehicles within the corporate limits of the Town of Greenwood; and

**WHEREAS**, the Town has previously enacted such an Ordinance, and in the opinion of the Town Council it is necessary and in the best interest of the public health, safety, and welfare to amend the ordinance to clarify and improve the enforcement procedures and to regulate abandoned motor vehicles on public property.

**NOW THEREFORE, BE IT HEREBY ENACTED** by the Town Council of the Town of Greenwood, a majority thereof concurring in council duly met, that “An Ordinance Prohibiting the Maintenance of Dismantled or Inoperable Motor Vehicles on any Property in the Town of Greenwood, Creating Exception Therefrom, and Prescribing Penalties for Violation Thereof” is hereby repealed in its entirety and replaced thereof with the following, to wit:

AN ORDINANCE PROHIBITING THE MAINTENANCE OF ABANDONED OR  
DISMANTLED OR INOPERABLE MOTOR VEHICLES ON PROPERTY IN THE TOWN OF  
GREENWOOD, CREATING EXCEPTIONS THEREFROM, AND PRESCRIBING  
PENALTIES FOR VIOLATIONS THEREOF

Section 1. DEFINITIONS. For the purposes of this Ordinance, the following definitions shall be applicable unless the context clearly indicates to the contrary:

- (a) "Abandoned motor vehicle" means any motor vehicle which is left unattended on public property under such circumstances as to cause such vehicle to reasonably appear to have been abandoned.
- (b) "Code Enforcement Officer" means any officer of the Greenwood Police Department or other authorized employee or agent in and for the Town of Greenwood.
- (c) "Dismantled Motor Vehicle" means any motor vehicle from which any major component has been removed so that it cannot be operated or is in such a state of disrepair as to be incapable of being operated.
- (d) "Inoperable Motor Vehicle" means any motor vehicle which has been wrecked so as to be incapable of being operated or which has no registration plates or which has expired registration plates of thirty (30) days or more, prohibiting it from being legally operated on the public streets of the Town of Greenwood.
- (e) "Motor Vehicle" means any self-propelled land vehicle which can be used for the transportation of people or materials or to pull machinery, including, but not limited to, automobiles, trucks, buses, vans, motorized campers, motorcycles, motor scoots, tractors, snow mobiles, dune buggies and other on-road and off-road vehicles.
- (f) "Person" means and includes an individual, natural person, joint stock company, partnership, voluntary association society, club, firm, company, corporation, business trust, organization or any other group acting as a unit, with a manager, lessee, agent, servant, partner, member, director, officer or employee of any of these, including executor, administrator, trustee, receiver or other representative appointed according to law.
- (g) "Private Property" is any real property located within the corporate limits of the Town of Greenwood which is privately owned and not defined herein as public property.
- (h) "Public Property" is any real property within the Town of Greenwood which is owned by a governmental body including, but not limited to, buildings, parking lots, parks, streets, sidewalks, rights-of-way, easements, or other similar property.
- (i) "Street" means any avenue, boulevard, alley, road, street or other public thoroughfare within the corporate limits of The Town of Greenwood.
- (j) "Town" is the Town of Greenwood.

Section 2. PURPOSE. It is the purpose of this Ordinance to eliminate the storing, keeping or maintaining of dismantled or inoperable motor vehicles on private property within the corporate limits of the Town in order to preserve the public health, safety, and welfare of the property owners and residents of the Town.

Section 3. NATURE. This Ordinance is declared to be remedial and shall be construed to secure the beneficial intent and purposes thereof which are to eliminate dangerous conditions detrimental to public good and to protect the public health, safety and general welfare of the property owners and residents of the Town.

Section 4. PROHIBITION AGAINST ABANDONED, DISMANTLED, OR INOPERABLE MOTOR VEHICLES.

(a) Private Property. It shall be unlawful for the owner of any private property or the tenant of any owner to store or maintain or to permit the storing or maintaining of any dismantled or inoperable motor vehicle on private property within the corporate limits of the Town for a period in excess of five (5) calendar days. This Ordinance shall not be applicable to any motor vehicles stored (1) within an enclosed building; (2) on the premises of a duly licensed business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or (3) at a storage place or depository maintained in a lawful place and manner for seasonal use vehicles such as snow mobiles, motorcycles, motor scooters, and non-motorized campers. Such business enterprises shall also include auto junk yards, auto repair and auto body shops.

(b) Public Property. No person shall leave an abandoned, dismantled, or inoperable motor vehicle on public property for a period in excess of five (5) calendar days. This section does not apply to motor vehicles owned by the Town that are parked or stored on public property.

(c) All violations of this section are hereby declared to be detrimental to the public health, safety, and general welfare of the property owners and residents of the Town and a common and public nuisance.

Section 5. NOTICE REQUIREMENTS.

(a) Private Property. Whenever the Code Enforcement Officer finds or is notified of a violation of this ordinance on private property, the Code Enforcement Officer shall cause a written notice and order of removal to be (1) affixed to the vehicle, (2) mailed to the owner of the property on which the vehicle is located, and (3) hand delivered to an occupant of the property or posted in a readily visible location on the front of the property. The notice and order of removal shall contain the following information:

1. The nature of the complaint;
2. Description and location of the motor vehicle(s) including the make, year, model, color, and registration number if known;
3. A statement that the motor vehicle or motor vehicles shall be removed from the premises within ten (10) calendar days of the date of the notice;
4. A statement that removal from the location specified in the notice to another location where such storage or maintenance is not permitted is prohibited and shall subject the person to such additional penalties;

5. A statement of penalties for non-compliance with such notice.

For purposes of this section, the date of the notice shall be the date the notice is given as required herein. In the event the required notices are not completed on the same date, the date of the final notice shall control.

- (b) Public Property. Whenever the Code Enforcement Officer finds or is notified of a violation of this ordinance on public property, the Code Enforcement Officer shall cause a written notice and order of removal to be affixed to the vehicle. The notice and order of removal shall contain the same information required in Section 5(a), except that the notice shall indicate the vehicle must be removed within five (5) calendar days.
- (c) Emergency Circumstances on Public Property. If the Code Enforcement Officer determines that an abandoned motor vehicle is an imminent threat of danger to the public health, safety, and welfare, the Code Enforcement Officer may have the vehicle removed without issuing a prior notice and removal order. Upon the removal of the vehicle, the Code Enforcement Officer shall promptly issue the notice of removal outlined in Section 7.

Section 6. REMOVAL OF MOTOR VEHICLES. Upon failure of the property owner or motor vehicle owner to remove the motor vehicle as specified in the notice, the Code Enforcement Officer is hereby authorized to remove or have removed such motor vehicle(s) from the property. Except for the Code Enforcement Officer and employees of the Town working in concert with the Code Enforcement Officer, such motor vehicle(s) shall be removed only by wreckers or towing services duly licensed by the State of Delaware. It shall be unlawful for any person to interfere with, hinder, or refuse to allow the Code Enforcement Officer and/or any person acting in concert with or at the direction of the Code Enforcement Officer to enter upon private property for the purpose of removing a motor vehicle under the provisions of this Ordinance.

Section 7. NOTICE OF REMOVAL. Within five (5) business days of the removal of such motor vehicle(s), the Code Enforcement Officer shall give written notice by first class mail to the registered owner of the vehicle and any lienholders, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said motor vehicle has been impounded and stored for violation of this Ordinance. The notice shall state the following:

- (a) The storage location of the motor vehicle(s);
- (b) The cost incurred and being incurred for removal of the motor vehicle(s);
- (c) That the motor vehicle is subject to the Delaware Garageman's Lien Statute, 25 Del. C. §3903, as it may be amended from time to time and any future corresponding provision of law; and
- (d) The owner of the motor vehicle is primarily liable for the costs incurred, but should the Town be or become liable for all or any portion of the expenses incurred in the removal and storage of such motor vehicle(s), the Town may exercise all legally available means to collect any costs incurred from the occupant and/or owner of the property where the motor vehicle was located.

Section 8. DISPOSITION OF MOTOR VEHICLES. Any person who tows, removes, stores, or keeps a vehicle at the direction of the Code Enforcement Officer acting under the

provisions of this Ordinance shall, from the time of taking possession thereof, be entitled to all rights, remedies, and authority as provided under the Delaware Garageman's Lien Statute, 25 Del. C. § 3901 et. seq., as it currently exists and may be amended from time to time, and any future corresponding provision of law. In exercising such rights, remedies, and authority, such persons shall be governed, in all respects, by the terms of that statute.

Section 9. LIABILITY FOR TOWING AND STORAGE EXPENSES. In the event that the Town should be or become liable for all or any portion of the expenses incurred in the removal and storage of such motor vehicle(s), the Town may exercise all legally available remedies, including but not limited to:

(a) Recovering the same from the owner of the motor vehicle and/or the owner of the private property from which the motor vehicle was removed in an action for debt; or

(b) As authorized by 25 Del. C. § 2901(a)(1)(k), adding the amount to the property tax bill of the person owning the private property from which the motor vehicle was removed.

Section 10. PENALTIES. Any person knowingly causing or permitting a nuisance to exist in violation of any provision of this Ordinance shall, upon conviction in a court of competent jurisdiction, be fined not less than Twenty-Five dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), and shall pay the costs of prosecution. For the purposes of this Ordinance, each day or part thereof that a violation continues shall be deemed to be a separate offense.

Section 11. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption by the Town Council.

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#### SYNOPSIS

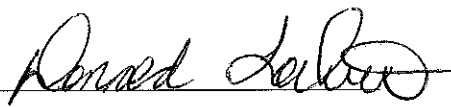
This Ordinance defines and establishes the prohibition against keeping abandoned, dismantled, or inoperable motor vehicles on public property and dismantled or inoperable motor vehicles on private property for longer than 5 days, subject to certain enumerated exceptions. Further, this Ordinance provides authority to remove such vehicles from public and private property, establishes requirements to notify responsible parties of violations and to provide notice once a vehicle has been removed, specifies liability for the vehicle removal costs, and prescribes penalties of \$25 to \$100, plus the cost of prosecution, for each offense.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Greenwood at a duly-noticed and convened meeting at which a quorum was present on \_\_\_\_\_, 2018.

So Certifies:

Attest:

  
Secretary

  
Mayor