

ORDINANCE #70
REGULATING INOPERABLE AND
UNLICENSED MOTOR VEHICLES
AND ALSO REGULATING
ABANDONED MOTOR VEHICLES

CITY OF HACKENSACK
CASS COUNTY, MINNESOTA

EFFECTIVE DATE:

JUNE 5, 2003

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**CITY OF HACKENSACK
ORDINANCE # 70**

**AN ORDINANCE REGULATING INOPERABLE AND UNLICENSED MOTOR
VEHICLES AND ALSO REGULATING ABANDONED MOTOR VEHICLES**

Section 1. Purpose

Inoperable and unlicensed motor vehicles and abandoned motor vehicles constitute a hazard to the health and welfare of the City of Hackensack in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well being of children and other citizens. Inoperable and unlicensed motor vehicles and abandoned motor vehicles and other scrap metals also constitute a blight on the landscape of the City and therefore a detriment to the environment. Inoperable and unrepaired motor vehicles constitute a waste of a valuable source of useful metal. It is therefore in the public interest that the present accumulation of inoperable and unlicensed motor vehicles and abandoned motor vehicles be eliminated and that said conditions not be allowed to exist in the future.

Section 2. Definitions of Inoperable and Unlicensed Motor Vehicles

2.1 Definitions. An inoperable and unlicensed vehicle means (a) a motor vehicle which is not properly licensed for operation within the State of Minnesota by the State of Minnesota; (b) a motor vehicle lacking vital component parts; (c) a motor vehicle which is in an inoperable condition or unable to move under its own power. Ice racers are exempt from January through March of every year.

2.2 Vital Component Parts means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle including, but not limited to, the motor, drive train and wheels. A motor vehicle in "inoperable condition" means a motor vehicle which has no substantial potential further use consistent with its usual functions.

2.3 City as used in this ordinance means the City of Hackensack.

2.4 Classic Cars A motor vehicle with pioneer, classic car, collector or street rod license shall be considered an inoperable or unlicensed vehicle if it meets the definition of an inoperable or unlicensed vehicle.

2.5 Inoperable Unlicensed Vehicles and Land Uses Vehicles on the premises of junk yards and automobile graveyards, which are defined, maintained and licensed in accordance with Minnesota Statutes Section 161.242, or which are licensed and maintained in accordance with local laws and zoning regulations, shall not be considered inoperable or unlicensed motor vehicles.

Section 3. Violation and Abatement Procedure for Inoperable and Unlicensed Motor Vehicles

3.1 Violation Any person or corporation who maintains or allows an inoperable or unlicensed motor vehicle on any public or private property, or otherwise violates this ordinance, is guilty of a misdemeanor.

3.2 Abatement Procedure The abatement procedure shall follow the steps listed below:

- (1) *Record Complaint* All complaints received shall be recorded on the appropriate City form that lists the nature and location of the alleged violation.
- (2) *Inspect Property* The City Council of Hackensack shall appoint a person to inspect the property in question (after obtaining any necessary warrant/permission if necessary) and document the existence of any perceived violation.
- (3) *Prepare Correction Notice* If it is determined that a violation exists, a Correction Notice must be provided to the violator and said Correction Notice shall contain the following:
 - (a) The nature of the violation and appropriate ordinance citation.
 - (b) The necessary action needed to correct the violation.
 - (c) The date by which the corrections must be made before the City will seek abatement.
 - (d) The right of and the manner for the alleged violator to request a hearing before the City Council unless it is an emergency case.
 - (e) A description of the penalties if the violation is not corrected.
 - (f) A statement that all costs incurred by the City in abating the violation shall be assessed against the property.
- (4) *Service Correction Notice* The Correction Notice shall be served to the property owner in person or by mail. If the premises are not occupied and/or owner is unknown, the Correction Notice may be served by posting it on the premises. The removal of all inoperable or unlicensed motor vehicles shall be accomplished by the property owner within 13 days of mailing of the Correction Notice, unless a shorter or longer time is provided for by the City Council through the appeal process.
- (5) *Determine Violation Status* Determine whether the violation has been corrected by the set date in the Correction Notice.
- (6) *Order Abatement* If the violation has not been corrected this matter will be placed on the City Council Agenda for approval by resolution to abate.
- (7) *Conduct Clean Up* If the inoperable or unlicensed motor vehicles are removed by the City then the property owner shall be provided written notice of where the

inoperable or licensed motor vehicle can be reclaimed and by what date the vehicles will be disposed of by the City. (Storage and payment for all property seized through the abatement process shall be handled in accordance with Minnesota State law.) The City shall give said written notice to the property owner of the taking of all inoperable or unlicensed motor vehicles into custody within ten (10) days from the date of the taking. The notice shall (a) set forth the date and place of the taking, the year, make, model and serial number of the motor vehicles, if such information can be reasonably obtained, and the place where the vehicles are being held, (b) inform the owner and any lienholders of their right to reclaim the vehicle under the following subsection 8 of this ordinance, and (c) state that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the sale of the vehicle and contents at a public auction, or the disposal of the vehicles by the city for scrap value only, pursuant to the following subsection 9 of this ordinance.

The notice shall be sent by mail to the property owner and to the registered owner, if any, of the inoperable or unlicensed motor vehicles and to all readily identifiable lienholders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in Cass County. Published notices may be grouped together for convenience and economy.

- (8) *Right to Reclaim* The owner or any lienholder of any abated motor vehicle taken into custody shall have the right to reclaim such vehicle from the City upon payment of all towing and storage charges and other costs resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice required by subsection 7 of this ordinance.
- (9) *Public Sale* If an inoperable or unlicensed motor vehicle or contents taken into custody and not reclaimed under subsection 8 of this ordinance is sold at public auction or sale, it shall be sold to the highest bidder following reasonable published notice of such auction or sale. The purchaser shall be given a receipt in a form prescribed by the registrar of motor vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must received a motor vehicle safety check.

Inoperable or unlicensed motor vehicles not sold pursuant to Subsection 9 shall be disposed of by the City for their scrap value only in accordance with subsection 10 of this ordinance.

From the proceeds of a sale under this subsection the City shall reimburse itself for the cost of towing, preserving and storing the vehicles, and all

administrative, notice and publication costs incurred in handling the vehicles pursuant to this ordinance. Any remainder from the proceeds of a sale shall be held for the owner of the vehicles or entitled lienholder for ninety (90) days and then shall be deposited into the general fund of the City.

- (10) *Disposal Authority* The City may contract with others or may utilize its own equipment and personnel for the removal and abatement and disposal of inoperable and unlicensed vehicles.
- (11) *Document All Costs* City of Hackensack personnel shall document all costs incurred and not reimbursed to the City including administrative, legal, clean up, and storage and/or disposal of any motor vehicles removed.
- (12) *Submit A Bill* City of Hackensack personnel shall submit a bill for said amount of the total costs of the abatement to the property owner. The amount shall be immediately due and payable in full 30 days after the bill is mailed to the violator. The bill shall be payable at the office of the Clerk/Treasurer.
- (13) *Unpaid Bills/Assessment* If the bill is not paid by the due date then the amount shall be a lien against the subject property and the amount shall be collected as a special assessment in the manner provided by Minnesota Statutes, Chapter 429.

3.3 Appeal Any appeal of the Correction Notice must be served upon the City Clerk/Treasurer within 7 days of the mailing of the Corrections Notice. All appeals shall be heard by the City Council at their regular meetings. Notice of the date of the appeal hearing to be held before the City Council shall be mailed to the violator at least 10 days prior to the hearing. The written decision of the City Council shall be mailed to the violator by mail. Any person aggrieved by the decision of the City Council shall have the right to appeal the decision of the City Council to the Cass County District Court. Any such appeal to the District Court must be served upon the City Clerk/Treasurer and filed in the Cass County Court Administrator's Office within twenty (20) days after it is served by mail upon the violator.

3.4 Emergency Case The City Council or its appointee shall have the authority to determine which violations constitute an emergency case. (An emergency case has no appeal process and requires immediate action.) When the officer charged with enforcement determines that an inoperable or unlicensed motor vehicle constitutes a serious and imminent danger to the public safety or health, the officer may summarily remove the motor vehicle after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by mail.

Section 4 Definitions of Abandoned Motor Vehicles.

4.1 Definitions An abandoned motor vehicle means (a) a motor vehicle which has remained for a period of more than forty-eight (48) hours on public property illegally; (b) a motor vehicle which has remained on private property for more than forty-eight (48) hours without the consent of the person in control of such property; (c) a motor vehicle which has remained on private property for more than forty-eight (48) hours without the consent of the person in control of such property in an inoperable condition; or (d) a motor vehicle voluntarily surrendered by its owner to and accepted by the City of Hackensack.

4.2 Storage of Abandoned Motor Vehicles A vehicle shall not be determined to be abandoned when kept in an enclosed garage or enclosed storage building. (A vehicle covered by a tarp is not considered enclosed by this ordinance.) A vehicle shall not be determined to be abandoned if it is being actively and consistently worked on and the premises on which the work is being done are maintained in an orderly manner provided that no more than one (1) such vehicle is in a condition that would otherwise qualify them as abandoned at any one time or in the case where a residential home does not have a garage.

4.3 City as used in this ordinance means the City of Hackensack.

4.4 Classic Cars A motor vehicle with pioneer, classic car, collector or street rod license shall be considered an abandoned vehicle if it meets the definition of an abandoned motor vehicle.

4.5 Abandoned Vehicles and Land Uses Vehicles on the premises of junk yards and automobile graveyards, which are defined, maintained and licensed in accordance with Minnesota Statutes Section 161.242, or which are licensed and maintained in accordance with local laws and zoning regulations shall not be considered abandoned motor vehicles.

Section 5. Violations Pertaining to Abandoned Motor Vehicles

5.1 Any person or corporation who abandons a motor vehicle on any public or private property, without the consent of the person in control of such property, or otherwise violates this ordinance, is guilty of a misdemeanor.

5.2 Any person or corporation who, in violation of this ordinance, permits an abandoned motor vehicle to remain on his or it's premises for more than forty-eight (48) hours is guilty of a misdemeanor.

Section 6. Abatement Procedure Pertaining to Abandoned Motor Vehicles.

6.1 Custody of Abandoned Vehicles The City may take into custody and impound any abandoned motor vehicle which is in violation of this ordinance.

6.2 Notice Within ten (10) days after the City has taken an abandoned motor vehicle into custody the City shall give a written notice to the registered owner of the vehicle and to all

readily identifiable lienholders of record. The notice shall (a) set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, (b) inform the owner and any lienholders of their right to reclaim the vehicle under Section 6.3 of this ordinance, and (c) state that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the sale of the vehicle and contents at a public auction pursuant to Section 6.4 of this ordinance.

If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in Cass County. Published notices may be grouped together for convenience and economy.

6.3 Right to Reclaim The owner or any lienholder of an abandoned motor vehicle shall have the right to reclaim such vehicle from the City upon payment of all towing and storage charges and other costs resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice required by Section 6.2 of this ordinance.

Nothing in this ordinance shall be construed to impair any lien of a garage keeper under the laws of the state, or the right of a lienholder to foreclose. For the purposes of this section, "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

6.4 Public Sale of Abandoned Motor Vehicles If an abandoned motor vehicle and contents taken into custody and not reclaimed under Section 6.3 of this ordinance is sold at public auction or sale, it shall be sold to the highest bidder following reasonable published notice of such auction or sale. The purchaser shall be given a receipt in a form prescribed by the registrar of motor vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

Abandoned motor vehicles not sold pursuant to Section 6.4 of this ordinance shall be disposed of by the City for their scrap value only in accordance with Section 6.5 of this ordinance.

From the proceeds of a sale under this section of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this ordinance. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety (90) days and then shall be deposited in the general fund of the City.

6.5 Disposal Authority The City may contract with others or may utilize its own equipment and personnel for removal and abatement and disposal of abandoned motor vehicles.

Section 7. Repeal of Conflicting Ordinances

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 8. Penalty

Any individual or property owner violating this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$700.00 or imprisonment for not more than 90 days or both.

Section 9. Effective Date

This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of Hackensack this 5th day of May, 2003.



Erick Hedren, Mayor

ATTEST:


Jody Knapp, City Clerk/Treasurer