

CHAPTER 6.46

ABANDONED VEHICLES AND VEHICLE HULKS

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6.46.010 PURPOSE OF POLICY. This chapter is enacted as an exercise of the police power of Benton County to protect and preserve the health, safety and welfare of the general public by providing procedures for the disposition of vehicles hulks and abandoned vehicles.

It is not the purpose of this chapter to unduly restrict bona fide restoration and/or repair of antique vehicles, classic vehicles, or those vehicles which can be made operable with the addition of minor parts or mechanisms and the application of minimal labor.

[Ord. 143 (1980) ▪ I]

6.46.020 DEFINITIONS. For the purposes of this chapter, the following words or phrases shall have the indicated meanings:

(a) "Abandoned vehicle" shall mean a vehicle which has been left upon the property of a person other than the registered or legal owner of said vehicle without the consent of the owner of such property for a period of twenty-four hours or longer, EXCEPT that a vehicle shall not be considered abandoned

if (1) its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance, or (2) it is operable and is legally parked upon a public street, road or highway right-of-way.

(b) "Registered Disposer" shall mean any currently licensed tow truck operator, garage keeper, or other person engaged in the business of removing, storing or disposing of vehicles, abandoned vehicles or vehicle hulks and who is properly registered and licensed pursuant to RCW 46.52.108.

(c) "Vehicle" shall mean any device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(d) "Vehicle Hulk" shall mean a vehicle or the remnant or remains thereof which is wrecked, dismantled or inoperative and cannot be made mechanically operative without the addition of vital parts or mechanism and the application of a substantial amount of labor to effect repairs.

[Ord. 143 (1980) ▪ II; Ord. 160 (1982) ▪ 1]

6.46.030 EXEMPTIONS. This chapter shall not apply to vehicle hulks or parts thereof:

(a) which are completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or,

(b) as to which all reasonable efforts have been made to assure that such vehicle hulks are not visible from any street, road, highway or other public or private property; or

(c) which are stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or vehicle dealer, fenced according to the provisions of RCW 46.80.130.

[Ord. 143 (1980) ▪ III; Ord. 160 (1982) ▪ 2]

6.46.040 DECLARATION OF NUISANCE. The Sheriff of Benton County is hereby authorized to declare as a public nuisance any abandoned vehicle or any vehicle hulk or parts thereof on property located within the unincorporated area of Benton County. [Ord. 143 (1980) ▪ IV; Ord. 160 (1982) ▪ 3]

6.46.050 NOTICE - HEARING. (a) Upon the Sheriff's declaration that an abandoned vehicle or vehicle hulk is a nuisance, the Sheriff shall send by certified mail return receipt requested within five days, notice of intent to remove such abandoned vehicle or vehicle hulk and a notice of right to a public hearing to:

(1) the last registered owner thereof, at their last known address as obtained from the State Department of Licensing; and

(2) the owner of record of the property upon which the abandoned vehicle or vehicle hulk is located.

(b) Such notice shall include a written statement that:

(1) an abandoned vehicle or vehicle hulk is on land belonging to the recipient of the notice, giving the address or legal description thereof, or was last registered to the recipient, and that such vehicle or hulk has been declared a public nuisance and the County intends to remove said vehicle or hulk;

(2) the recipient has a right to have a public hearing before the Board of Benton County Commissioners;

(3) such public hearing is not automatic and must be requested by the recipient at the Office of the Board of Benton County Commissioners in the County Courthouse;

(4) if no hearing request is received by the Commissioners, either by letter or in person, within fifteen days from the mailing date of such notice, the vehicle or vehicle hulk shall be removed and the costs of removal charged to the person so notified.

Such notice of intent to abate a nuisance and of right to a public hearing shall be in substantially the following form:

NOTICE OF INTENT TO ABATE NUISANCE  
AND OF RIGHT TO PUBLIC HEARING

BENTON COUNTY, WASHINGTON

TO:

\_\_\_\_\_  
Name of Last Registered Owner

\_\_\_\_\_  
Address

and

\_\_\_\_\_  
Name of Landowner

\_\_\_\_\_  
Address

YOU ARE HEREBY NOTIFIED that the keeping or storing of the following described abandoned vehicle or vehicle hulk:

(Description of Vehicle)

at

(Location of Vehicle)

constitutes a nuisance in violation of Chapter 6.46 of Benton County Code, and said County intends to remove and abate said nuisance.

You have a right to a public hearing before the Board of Benton County Commissioners, PROVIDED you make a request to the Board within fifteen days following the above mailing date. If no such request is received by the Board, either by letter or in person, the above-described vehicle or vehicle hulk will be removed and liability for the costs of removal and impoundment will be assessed against one or both of the above-named individuals.

(c) If a hearing request is timely communicated to the Board of Benton County Commissioners, the Board shall set a hearing for a date not more than fifteen days after receipt of such request, and send notification as to the time, date, and location of such hearing on the question of abatement and removal of the abandoned vehicle or vehicle hulk as a public nuisance. Such notice shall be mailed by certified or registered 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 the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. [Ord. 143 (1980) § V; Ord. 160 (1982) § 4]

6.46.060 DEFENSES AVAILABLE. (a) The record owner of the land on which the vehicle is located prior to removal 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, with his reasons for such denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he 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; and the County shall not otherwise attempt to collect such cost from the land owner.

(b) The last registered owner of the vehicle shall be excused from liability for costs of removal whenever the State Department of Licensing certifies that said registered owner has transferred the car and executed a document in compliance with RCW 46.52.104 as it now exists or may hereafter be amended.

(c) Upon the occasion of a requested hearing, the owner may assert that a vehicle or hulk otherwise within the category of the contemplated vehicles or hulks should not be abated as a nuisance because of his peculiar circumstances. The owner may further assert that, under such circumstances, stated with particularity, there can be no reasonable basis for removing the vehicle or hulk because its manifest usefulness to the owner outweighs the community benefit of concealment.

In such cases, the Board of County Commissioners shall promote the ends sought by this chapter, without destroying

the usefulness of the vehicle or hulk, by inquiring into the particular facts, including the location of the vehicle or hulk and outbuildings in relation to the adjacent public way. The Commissioners shall then decide whether means exist to effect concealment from public view without removal.

Even if it is determined that concealment is not practicable, the Board of County Commissioners may prevent removal in appropriate cases. The determination of appropriateness shall depend upon such factors as: The extent to which removal will cause material loss and prevent use of the hulk or vehicle for the purpose for which it has been adapted; the continued use of the vehicle or hulk as a part's reservoir and the degree of actual dependency of the continued functioning of the owner's transportation or business upon said parts' reservoir; the educative value, if any, provided by the vehicle or hulk; use of the vehicle or hulk in the active pursuit of a hobby or business of antique or classic car restoration.

The burden of proof of such mitigating circumstances shall be upon the owner to demonstrate that abatement would be confiscatory or otherwise unreasonable.  
[Ord. 143 (1980) ▪ VI; Ord. 160 (1982) ▪ 5]

6.46.070 REMOVAL OF VEHICLE OR HULK. (a) In the event that a hearing is not requested pursuant to BCC 6.46.050, or if at a hearing duly held before the Board of Benton County Commissioners the determination of nuisance and abatement thereof is affirmed, the Sheriff shall arrange for a registered disposer to take custody of the abandoned vehicle or vehicle hulk and remove the same to the established place of business of the registered disposer where the abandoned vehicle or vehicle hulk shall be stored.

At or before the time that the registered disposer takes custody, the Sheriff shall provide the registered disposer with the names and addresses of the last known registered and legal owners of the vehicle or hulk as obtained from the Department of Licensing.

(b) Within twenty-four hours after receiving custody of the abandoned vehicle or vehicle hulk, the registered disposer

shall give notice of such custody to the State Department of Licensing and the Washington State Patrol.  
[Ord. 143 (1980) ▪ VII; Ord. 160 (1982) ▪ 6]

6.46.080 LIABILITY FOR COST OF REMOVAL, STORAGE AND DISPOSITION. (a) The registered disposer shall have a lien upon an abandoned vehicle or vehicle hulk taken into his custody pursuant to BCC 6.46.070 for services provided in the towing and storage of the vehicle or vehicle hulk.

(b) The registered disposer shall also have a claim against the last registered owner of such of the abandoned vehicle or vehicle hulk for services provided in the towing and storage of the vehicle or hulk, not to exceed the sum of two hundred dollars.

A registered owner who has complied with RCW 46.52.104 in the transfer of ownership of the vehicle or hulk shall be relieved of liability under this section.

(c) In the event that the last registered owner of the abandoned vehicle or vehicle hulk cannot be determined or is relieved of liability pursuant to subsection (b) hereof, the registered disposer shall also have a claim against the owner of the land on which the vehicle or hulk was located for services provided in the towing and storage of the vehicle or hulk, not to exceed the sum of two hundred dollars.  
[Ord. 143 (1980) ▪ VIII; Ord. 160 (1982) ▪ 7]

6.46.090 DISPOSITION OF ABANDONED VEHICLES AND VEHICLES HULKS -- PUBLIC SALE. (a) Within three (3) days after taking possession of an abandoned vehicle or vehicle hulk, the registered disposer shall send a notice to the registered and legal owners of such vehicle or hulk to the last known addresses of the owners as the addresses appear on the records of the Department of Licensing by certified or registered mail, return receipt requested. Such notice shall contain a description of the vehicle or hulk, including its license number and vehicle identification number, and shall state the amount due the registered disposer for services in the towing and storage of such vehicle or hulk and the date, time and place of public sale thereof to be held not less than eighteen (18) days after the date of mailing such notice if the amount remains unpaid. If the vehicle or hulk is sold pursuant to this section, a

copy of the notice, with proof of mailing, shall be retained in the registered disposer's files and available for inspection for a period of three (3) years from the date of sale.

(b) If, after the expiration of fifteen (15) days from the date of mailing of the notice required by this section, the vehicle or hulk remains unclaimed and has not been listed as a stolen or recovered vehicle, the registered disposer shall proceed to conduct a sale of the same at public auction after having first published a notice of the date, place and time of such auction in a newspaper of general circulation in Benton County not less than three (3) days before the date of such auction.

The abandoned vehicle or vehicle hulk shall be sold at public auction to the highest bidder. The proceeds of such sale, after deducting the towing and storage charges due the registered disposer, including the cost of sale, which shall be computed as in a public auction sale of personal property by the Sheriff, shall be certified one-half to the County Treasurer of Benton County to be credited to the county current expense fund, and one-half to the State Treasurer to be credited to the highway safety fund. If the amount bid at the auction is insufficient to compensate the registered disposer for his towing and storage charges and the cost of sale, such registered disposer shall be entitled to assert a claim for any deficiency, not to exceed two hundred dollars less the amount bid at the auction, against the last registered owner of such vehicle or vehicle hulk or the landowner, as provided in subsection (b) above. A registered owner who has complied with RCW 46.52.104 as it now exists or may hereafter be amended in the transfer of ownership of the vehicle or hulk shall be relieved of liability under this section.

[Ord. 143 (1980) ■ IX; Ord. 160 (1982) ■ 8]

6.46.100 QUALIFICATION OF REGISTERED DISPOSERS. The Benton County Sheriff may utilize any registered disposer registered and licensed pursuant to RCW 46.52.108 and engaged in removing and storing motor vehicles within Benton County for the purpose of disposing of abandoned vehicles or vehicle hulks, PROVIDED, such registered disposer provides evidence of compliance with RCW 46.52.108 and a surety bond in the amount of three thousand dollars running to the county and executed by a surety company authorized to do business in the State of Washington, conditioned that the registered disposer

shall conduct his business in conformity with the provisions of this chapter and to compensate any person, company or Benton County for failure to comply with this chapter or for fraud, negligence or misrepresentation in the handling of abandoned vehicles or vehicle hulks.

The Sheriff may decline to utilize any registered disposer upon evidence that the registered disposer is not complying with all laws, rules and regulations relative to the handling and disposition of abandoned vehicle and vehicle hulks. When more than one registered disposer qualifies under this section, the Sheriff shall allocate the impoundments authorized by this chapter on a rotating basis among the qualifying registered disposers as equally as is practicable.

[Ord. 143 (1980) ▪ X; Ord. 160 (1982) ▪ 9]

**NOTE: PAGES 6-48 THROUGH 6-53 INCLUSIVE ARE HEREBY RESERVED.**