



ORDINANCE 2021-02

AN ORDINANCE GOVERNING ABANDONED AND JUNK MOTOR VEHICLES IN, ON, AND/OR AROUND PUBLIC ROADWAYS

WHEREAS, the City of Delta Junction Municipal Code of Ordinances promotes the public health and safety of residents and visitors of the City of Delta Junction; and

WHEREAS, vehicles are or may in the future be abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, or discarded or left about the City of Delta Junction in or around roadways and other inappropriate areas; and

WHEREAS, such conditions tend to impede street traffic and maintenance, interfere with the enjoyment of property, incite plundering, create serious public health and safety hazards, and extend and aggravate visual blight; and

WHEREAS, the Council of the City of Delta Junction, Alaska, finds that procedures should be established for the impoundment and disposal of unclaimed abandoned and junk vehicles left in, on, and/or around public roadways, the assessing of costs and fees for having to impound such abandoned and junk vehicles, and notice requirements regarding all of the same within the limits of the City of Delta Junction.

NOW, THEREFORE, in consideration of those findings, **BE IT ORDAINED AND ENACTED BY THE CITY OF DELTA JUNCTION, ALASKA:**

1. The City of Delta Junction Municipal Code of Ordinances is hereby amended by enacting and adding chapter 3.40 to Title III, entitled “Abandoned and Junk Vehicles,” to read as follows:

2. This ordinance is of a permanent and general character, shall be included in the City of Delta Junction Municipal Code of Ordinances, and shall become effective immediately upon enactment.

Introduction: January 19, 2021
 First Reading: January 19, 2021
 Public Hearing: February 2, 2021
 Second Reading: February 2, 2021
 Adoption: February 2, 2021

ADOPTED by a duly constituted quorum of the City Council of Delta Junction this 2nd day of February 2021.

	YES	NO	ABSENT	ABSTAIN
Seat A: Heinbockel				
Seat B: Catterson				
Seat C: Prestegard				
Seat D: Degnan				
Seat E: Lester				
Seat F: Hallgren				
Seat G: Levinson				

 Freda Degnan, Mayor

CITY
 SEAL

 Pat White, City Clerk

CHAPTER 3.40

ABANDONED AND JUNKED VEHICLES IN PUBLIC ROADWAYS

Sections:

3.40.010	Definitions
3.40.015	Storing, Parking, or Leaving Abandoned or Junked Vehicles in Public Roadways Prohibited and Declared Nuisance
3.40.020	Responsibility for Removal
3.40.025	Abatement and Removal Procedures
3.40.045	Notice of Removal
3.40.050	Vesting of Title
3.40.055	Redemption of Impounded Vehicles
3.40.057	Impoundment Hearing
3.40.058	Hearing Officer
3.40.060	Disposition of removed or impounded vehicles
3.40.065	Public Auction
3.40.070	Liability for Removal
3.40.080	Waiver of Claims for Damages
3.40.085	Other Impound Provisions
3.40.090	Penalty

3.40.010 Definitions: For purposes of this chapter, the following terms and their derivations shall have the meaning given herein.

(a) "Vehicle" is any means of transport or carrying which is propelled other than by human power and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorcycles, trucks, motor scooters, tractors, go-carts, motorhomes, golf carts, 4-wheelers, snow machines, and all-terrain vehicles.

(b) "Abandoned vehicle" is any vehicle that has been discarded, left unattended, standing or parked upon the traveled portion of a public road, street or other City property in excess of 72 hours; or that has been discarded, left unattended, standing or parked upon private property without the consent of the owner or person in charge of the property in excess of 72 hours; or that has been discarded, left unattended, standing or parked upon other public property without the consent of the person in charge of the property for more than 7 days.

(c) "Junked Vehicle" means a vehicle that exhibits at least 2 of the following elements:

1. Has not been registered for six (6) months,
2. Is inoperable because it is missing a major component such as the engine, transmission, axle, differential, transfer case, front driver seat, or steering wheel,
3. The cost of repairs required to make the vehicle operable exceeds the fair market value of the vehicle,

4. Missing a windshield or window,
5. Missing 2 or more wheels or tires, or has 2 or more flat tires,
6. Missing a major body part, such as a fender, quarter panel, bumper, trunk lid, door or hood.

(d) "the City" means the City of Delta Junction and any designee of the City.

3.40.015 Storing, parking, or leaving abandoned or junked vehicles in public roadways prohibited and declared nuisance:

(a) No person shall park, store, leave, or permit the parking, storage, or leaving, of any abandoned vehicle, or any parts thereof, upon any public road, street, highway, right-of-way, or other public thoroughfare, on any other public property without proper governmental authority, or on private property without the consent of the owner of the property, for any period of time in excess of the periods specified in Section 3.40.010(b). The presence of any such abandoned vehicle, or parts thereof, is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter.

(b) No person shall park, store, leave, or permit the parking, storage, or leaving, of any junked vehicle, or any parts thereof, upon any public road, street, right-of-way, or other public thoroughfare, on any other public property without proper governmental authority, or on private property without the consent of the owner of the property, for any period of time. The presence of any such junked vehicle, or parts thereof, is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter.

(c) Any persons who violate Section 3.40.015(a) or (b) shall be subject to a fine as the City Council shall fix by resolution.

3.40.020 Responsibility for removal. Upon proper notice and opportunity to be heard, the owner of the vehicle or the person in possession of the same when it was abandoned or parked, or both jointly and severally, shall be responsible for its removal.

3.40.025 Abatement and Removal Procedures.

(a) Summary removal. If an abandoned or junked vehicle is found on or about the traveled portion of a public road, street, right-of-way, or other public thoroughfare, in whole or in part, or removal of an abandoned or junked vehicle is otherwise necessary for the protection of the health, safety, or welfare of the public, it may be removed and impounded immediately without prior notice. In such instances, notice that otherwise complies with Section 3.40.045 shall be given as soon as practical after towing or impound.

(b) Summary notice. Except as provided in subsection (a) of this section, abandoned or junked vehicles shall be removed and impounded only after notice:

1. If the abandoned or junked vehicle is stored, in whole or in part, on a public road, street, right-of-way, or other public thoroughfare, or on other public

property without proper governmental authority, or on private property without the consent of the owner of the property, then the notice shall consist of a notice of intent to remove and impound of a form and content prescribed by the Council of the City of Delta Junction or a designee, which shall be attached to the vehicle (in this chapter, "tagged").

2. If the abandoned or junked vehicle is parked or stored, in whole or in part, on private property without the consent of the owner of such property, the vehicle may be removed and impounded by the City or a designee after being tagged for 24 hours. The property owner's lack of consent to the storage of the vehicle on his or her property shall be established by affidavit or declaration under penalty of perjury executed by the property owner, and such property owner shall be liable for any vehicle improperly impounded pursuant to the same.

3. If the abandoned or junked vehicle is parked or stored, in whole or in part, on a public road, street, right-of-way, or other public thoroughfare, or on other public property without proper governmental authority, the vehicle may be removed and impounded by the City or a designee after being tagged for 48 hours.

4. Unless authorized by an Alaska State Trooper or other peace officer or City representative with authority to enforce this chapter, it is unlawful for any person to remove the tagged notice described in this section from a vehicle upon which it has been posted.

3.40.045 Notice of removal: Within 48 hours of the impound or removal of any abandoned or junked vehicle, the City or its designee shall give a written notice of impound or removal to the registered owner and lienholder of record of the vehicle, if known, and to the owner or occupant of the private property from which the vehicle was removed, if applicable. The notice shall state that the vehicle has been impounded and stored for violation of this chapter. The notice shall also give the location of where the vehicle is stored, state the costs incurred by the City for removal, and advise that such vehicle shall be disposed of if unclaimed within 30 days after notice of removal is given. If the abandoned or junked vehicle is not registered in the state, or if the name and address of the owner and lienholder cannot be ascertained, notice of removal shall be published four times during four consecutive calendar weeks, once in each week, in a newspaper of general circulation within the City.

3.40.050 Vesting of title: Title to an impounded vehicle not reclaimed by the registered owner, a lienholder, or other person entitled to possession within 30 days from the notice of removal vests with the City.

3.40.055 Redemption of impounded vehicles: The owner of any vehicle removed under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the City or its designee of such sum as the Council of the City of Delta Junction may determine and fix for the actual and reasonable expense of removal and storage, including any notice, advertising, and sale expenses. The City Council may, by resolution, also fix a daily fee for storage of vehicles.

3.40.057 Impoundment hearing:

(a) If demand is timely made, the owner or person entitled to possession of a vehicle is entitled to an administrative hearing to determine whether there was a sufficient factual and legal basis for impoundment of the vehicle. To be entitled to such a hearing a written demand must be filed with the City or its designee (1) within five workdays after the owner or person entitled to possession learned that the vehicle was impounded or was missing; or (2) within 15 workdays after the City or its designee delivered or mailed the notice required by Section 3.40.045 to the vehicle's registered owner; whichever occurs first. If no timely request for a hearing is made, the factual and legal basis for impoundment will be conclusively deemed sufficient for all purposes.

(b) The hearing will be held within 72 hours after the filing of a timely written demand, not including Saturdays, Sundays, and City holidays.

(c) The hearing officer shall not be bound by formal rules of evidence. A copy of the fully completed and signed order of impoundment will constitute prima facie proof of sufficient factual and legal basis for impoundment. The burden will be on the vehicle owner or person entitled to possession of the vehicle to prove by a preponderance of the evidence that there was an insufficient factual or legal basis for impounding the vehicle.

(d) A determination by the hearing officer that there was an insufficient factual or legal basis for impounding the vehicle will require the release of the vehicle to the owner or other person entitled to possession without payment of the towing and storage fees, or will entitle the person to a refund if the fees have already been paid.

(e) The City will be responsible for payment or refund of the towing and storage fees for any vehicle impounded under this chapter if the hearing officer determines that there was an insufficient factual or legal basis for such impoundment.

3.40.058 Hearing officer:

(a) Upon receipt of demand for a hearing, the City or its designee shall schedule an administrative hearing and notify all parties.

(b) The City shall appoint a single person who shall serve as a hearing officer to conduct hearings pursuant to Section 3.40.057. No Alaska State Trooper or other peace officer or City representative with authority to enforce this chapter shall be eligible to serve as hearing officer.

3.40.060 Disposition of removed or impounded vehicles:

(a) Within 10 days after removal of a vehicle under this chapter, the City of Delta Junction or its designee shall make a reasonable good-faith estimate of the value of such vehicle.

(b) If the City or its designee determines that the vehicle is scrapped, dismantled, or destroyed beyond repair, or that it no longer has significant value due to the age and condition of the vehicle, the person acting for the City or its designee shall execute an affidavit so attesting. Upon satisfaction of the notice requirements set forth in this chapter, the City or its designee may summarily dispose of the vehicle by

destruction at the expiration of the 30-day period required by Section 3.40.045. The City shall designate appropriate areas within its jurisdiction for the disposal of abandoned or junked vehicles.

(c) If the vehicle reasonably appears to be valued at over \$500, the City or its designee shall, upon expiration of the 30-day period required by Section 3.40.045, give notice that the vehicle will be sold at public auction. The notice of public auction shall be given not less than 20 days before the date of the proposed sale and shall be accomplished by publication in a newspaper of general circulation within the City. The notice of public auction shall describe the vehicle, including make, model, license, or decal number and any other information that will accurately identify the vehicle, and specify the date, time and place of the sale. A copy of the notice of public auction shall be conveyed to the State of Alaska, Department of Public Safety.

(d) Proceeds from the sale of abandoned or junked vehicles, after deducting the cost of impounding, advertising, and selling the vehicle and any other incidental costs, shall be deposited into the general fund.

3.40.065 Public auction: A vehicle sold at public auction shall be sold to the highest and best bidder. At the time of payment of the purchase price, the City Administrator or designee shall execute a certificate of sale in duplicate, the original of which is to be given to the purchaser and the copy thereof to be filed with the City. The purchaser shall be solely responsible for complying with all necessary title and registration requirements imposed by law, including compliance with 2 AAC 92.050. Should the sale for any reason be invalid, the City's liability shall be limited to the return of the purchase price.

3.40.070 Liability for removal. In the event of removal and disposition by the City, the owner of the abandoned or junked vehicle and the person in possession of the same at the time of abandonment or parking of the same, shall be jointly and severally liable for the expenses incurred. The City may maintain a personal action against the owner of the vehicle, the person in possession of the same at the time of abandonment or parking, or both of them, for the amount of such expenses.

3.40.080 Waiver of claims for damages. All persons, including the owner of an abandoned or junked vehicle, waive all claims for damage to the vehicle that may result from actions taken pursuant to this chapter. Such damage includes, but is not limited to, accidental damage or destruction occasioned by removal, transport, storage, and acts of third parties.

3.40.085 Other impound provisions. Nothing in this chapter shall be construed to limit the City's authority to impound vehicles for authorized reasons under other provisions of law.

3.40.090 Penalty. Every act prohibited by this chapter is unlawful. Any person found guilty of violating any provision of this chapter may be punished by fines as the City Council shall fix by resolution.