

ORDINANCE NO. 1074

AN ORDINANCE PROVIDING TOWING AND IMPOUNDMENT OF ABANDONED, UNAUTHORIZED AND JUNK VEHICLES AND REPEALING ORDINANCE NO. 848.

WHEREAS, the City Council of the City of College Place has adopted the Model Traffic Ordinance (Chapter 308-330 of the Washington State Administrative Code) by Ordinance 718, which Ordinance has been codified as Chapter 10.04 CPMC; and

WHEREAS, WAC 308-330-010 provides that “[T]he addition of any new section to, or amendment or repeal of any section in, this chapter shall be deemed to amend any city, town, or county ordinance which has adopted by reference to this chapter or any part thereof, and it shall not be necessary for the legislative authority of any city, town, or county to take any action with respect to such addition, amendment, or repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140, 35A.13.180, and 36.32.120(7);” and

WHEREAS, the City Council of the City of College Place adopted Ordinance 848 on the subject of abandoned vehicles in year 2000, which Ordinance has been codified as Chapter 10.24 CPMC; and

WHEREAS, certain parts of Ordinance 848 have not only been repealed or modified by operation of law pursuant to WAC 308-330-010 but have also been repealed by implication by subsequent legislative action due to the fact that Section 308-330-406 adopts by reference the following sections of the Revised Code of Washington pertaining to abandoned, unauthorized, impounded and junk vehicles as now or hereafter amended as a part of the Model Traffic Ordinance as though such sections were set forth in the Model Traffic Ordinance in full: RCW 46.55.010, 46.55.020, 46.55.025, 46.55.035, 46.55.037, 46.55.040, 46.55.050, 46.55.060, 46.55.063, 46.55.070, 46.55.075, 46.55.080, 46.55.085, 46.55.090, 46.55.100, 46.55.105, 46.55.110, 46.55.113, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.160, 46.55.170, 46.55.230, and 46.55.240; and

WHEREAS, the foregoing statutes provide the City, with limited exceptions, with all of the necessary tools that it needs to regulate unauthorized, abandoned, impounded and junk vehicles; and

WHEREAS, Chapter 308-330 is not intended to deny any local authority its legislative power, but is intended rather to enhance the safe and efficient movement of traffic throughout the state by having current, uniform traffic laws available; and

WHEREAS, RCW 46.55.240 permits a City to adopt additional provisions concerning unauthorized, abandoned, impounded and junk vehicles to supplement those statutes contained in the Model Traffic Ordinance on the subject of abandoned, unauthorized, impounded and junk vehicles; and

WHEREAS, the City Attorney has recommended that Ordinance 848 be repealed in its entirety so as to avoid any duplication of and conflict with those states statutes heretofore adopted that are contained in WAC 308-330-406; and

NOW, THEREFORE, the City Council of the City of College Do Ordain as Follows:

Section 1. Purpose. The following provisions of this ordinances are hereby prescribed and established to aid in the regulation of abandoned, unauthorized, impounded and junk vehicles within the City of College Place and are in addition and supplemental to the provisions of RCW 46.55.010, 46.55.020, 46.55.025, 46.55.035, 46.55.037, 46.55.040, 46.55.050, 46.55.060, 46.55.063, 46.55.070, 46.55.075, 46.55.080, 46.55.085, 46.55.090, 46.55.100, 46.55.105, 46.55.110, 46.55.113, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.160, 46.55.170, 46.55.230, and 46.55.240, which are adopted by reference by the Model Traffic Ordinance, which has been adopted by the City Council of the City of College Place by Ordinance 718.

Section 2. Definitions. The following definitions shall supplement and are in addition to those definitions contained in RCW 46.55.010:

- (A) A motor vehicle is "apparently inoperable" if it is incapable of self-locomotion.
- (B) The term "fair market value" shall mean the price at which a willing seller and a willing buyer will trade.
- (C) Department" means the Washington State Department of Licensing.

Section 3. Unauthorized Vehicle. RCW 46.55.010(13) of the Model Traffic Ordinance is hereby modified as follows:

RCW 46.55.010(14). "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

- (a) Public Locations: (i) Constituting an accident or a traffic hazard as defined in RCW 46.55.113 immediately; (ii) On a highway and tagged as described in RCW 46.55.085 ninety-six hours; (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 immediately;

ORDINANCE NO. 1074

AN ORDINANCE PROVIDING TOWING AND IMPOUNDMENT OF ABANDONED, UNAUTHORIZED AND JUNK VEHICLES AND REPEALING ORDINANCE NO. 848.

WHEREAS, the City Council of the City of College Place has adopted the Model Traffic Ordinance (Chapter 308-330 of the Washington State Administrative Code) by Ordinance 718, which Ordinance has been codified as Chapter 10.04 CPMC; and

WHEREAS, WAC 308-330-010 provides that “[T]he addition of any new section to, or amendment or repeal of any section in, this chapter shall be deemed to amend any city, town, or county ordinance which has adopted by reference to this chapter or any part thereof, and it shall not be necessary for the legislative authority of any city, town, or county to take any action with respect to such addition, amendment, or repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140, 35A.13.180, and 36.32.120(7);” and

WHEREAS, the City Council of the City of College Place adopted Ordinance 848 on the subject of abandoned vehicles in year 2000, which Ordinance has been codified as Chapter 10.24 CPMC; and

WHEREAS, certain parts of Ordinance 848 have not only been repealed or modified by operation of law pursuant to WAC 308-330-010 but have also been repealed by implication by subsequent legislative action due to the fact that Section 308-330-406 adopts by reference the following sections of the Revised Code of Washington pertaining to abandoned, unauthorized, impounded and junk vehicles as now or hereafter amended as a part of the Model Traffic Ordinance as though such sections were set forth in the Model Traffic Ordinance in full: RCW 46.55.010, 46.55.020, 46.55.025, 46.55.035, 46.55.037, 46.55.040, 46.55.050, 46.55.060, 46.55.063, 46.55.070, 46.55.075, 46.55.080, 46.55.085, 46.55.090, 46.55.100, 46.55.105, 46.55.110, 46.55.113, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.160, 46.55.170, 46.55.230, and 46.55.240; and

WHEREAS, the foregoing statutes provide the City, with limited exceptions, with all of the necessary tools that it needs to regulate unauthorized, abandoned, impounded and junk vehicles; and

WHEREAS, Chapter 308-330 is not intended to deny any local authority its legislative power, but is intended rather to enhance the safe and efficient movement of traffic throughout the state by having current, uniform traffic laws available; and

WHEREAS, RCW 46.55.240 permits a City to adopt additional provisions concerning unauthorized, abandoned, impounded and junk vehicles to supplement those statutes contained in the Model Traffic Ordinance on the subject of abandoned, unauthorized, impounded and junk vehicles; and

WHEREAS, the City Attorney has recommended that Ordinance 848 be repealed in its entirety so as to avoid any duplication of and conflict with those states statutes heretofore adopted that are contained in WAC 308-330-406; and

NOW, THEREFORE, the City Council of the City of College Do Ordain as Follows:

Section 1. Purpose. The following provisions of this ordinances are hereby prescribed and established to aid in the regulation of abandoned, unauthorized, impounded and junk vehicles within the City of College Place and are in addition and supplemental to the provisions of RCW 46.55.010, 46.55.020, 46.55.025, 46.55.035, 46.55.037, 46.55.040, 46.55.050, 46.55.060, 46.55.063, 46.55.070, 46.55.075, 46.55.080, 46.55.085, 46.55.090, 46.55.100, 46.55.105, 46.55.110, 46.55.113, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.160, 46.55.170, 46.55.230, and 46.55.240, which are adopted by reference by the Model Traffic Ordinance, which has been adopted by the City Council of the City of College Place by Ordinance 718.

Section 2. Definitions. The following definitions shall supplement and are in addition to those definitions contained in RCW 46.55.010:

(A) A motor vehicle is "apparently inoperable" if it is incapable of self-locomotion.

(B) The term "fair market value" shall mean the price at which a willing seller and a willing buyer will trade.

(C) "Department" means the Washington State Department of Licensing.

Section 3. Unauthorized Vehicle. RCW 46.55.010(13) of the Model Traffic Ordinance is hereby modified as follows:

RCW 46.55.010(14). "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

(a) Public Locations: (i) Constituting an accident or a traffic hazard as defined in RCW 46.55.113 immediately; (ii) On a highway and tagged as described in RCW 46.55.085 ninety-six hours; (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 immediately;

(b) Private Locations: (i) On residential property immediately; (ii) On private, nonresidential property, properly posted under RCW 46.55.070 immediately; (iii) On private, nonresidential property, not posted ninety-six hours.

Section 4. Mandatory Impoundment for Driving While Under the Influence of alcohol or Drugs and for Being In Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs. RCW 46.55.350 through RCW 46.55.370 are hereby adopted by reference.

Section 5. Impoundment Authorized for Driving While Suspended or Revoked. In addition to impounds authorized by RCW 46.55.010(14) and RCW 46.55.080, impounds are also authorized for the offenses of Driving while License Invalidated and Driving While Suspended or Revoked (RCW 46.20.342 and RCW 46.20.345) per the provisions of RCW 46.55.120; provided, however, if the driver of a vehicle arrested for a violation of RCW 46.20.342 or RCW 46.20.345 is not the registered owner of the vehicle then the vehicle shall not be impounded unless the registered owner has been previously notified that his or her vehicle was on prior occasion operated by the same driver when his or her privilege to drive was suspended or revoked and that future operation of the vehicle by the suspended or revoked driver will result in the impoundment of the vehicle. Such notice must have been either personally served on the registered owner of the vehicle or sent to the registered owner certified mail, return receipt requested, with sufficient postage affixed to ensure delivery. The notice must identify the driver, the date the driver was arrested and the location of the arrest.

Section 6. Notice of Right to Hearing. Pursuant to RCW 46.55.120 any registered tow truck operator shall provide any person who seeks to redeem an impounded vehicle, or item of property registered or titled with the Department, a written notice of the right of redemption and opportunity for hearing, which notice shall be accompanied by a form developed by the College Place Police Department to be used for requesting a hearing, the name of the person or agency authorizing the impound and a copy of the storage invoice. The registered tow truck operation shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

Section 7. Impounds Authorized for Vehicles Left on City Property. Pursuant to RCW 46.55.080 and 46.55.240 vehicles left on City owned property other than rights-of-ways may be impounded if left standing on such property for more than 24 hours, provided, however, that unless an emergency exists requiring immediate removal, a notice shall first be affixed to the vehicle containing that information specified RCW 46.55.085(1)(a), (b), (d) and (e) and advising that if the vehicle is not removed within 24 hours from the time the notice is attached, the vehicle may be impounded and stored at the owner's expense, and, provided further, vehicles left standing on the grass on City owned park property may be impound immediately if such park property is posted per the provisions of RCW 46.55.070.

Section 8. Abatement and removal of junk vehicles or parts thereof from private property. In addition to the procedures available under RCW 46.55.230 to landowners and tow

truck operators, the following procedures shall be available for regulation of junk vehicles pursuant to RCW 46.55.240.

(A) The storage or retention of a junk vehicle, as defined in RCW 46.55.010(4), on private property is declared to constitute a public nuisance and is subject to abatement and removal according to the provisions of this chapter. The police department shall investigate complaints relative to the retention and storing of junk vehicles or parts thereof on private property, and shall have the authority to enforce the provisions of this chapter.

(B) Upon discovery of such nuisance, the chief of police or his designee shall give notice in writing to the last registered owner of record and property owner of record to abate the nuisance or face removal of such vehicle and informing the last registered owner of record and the property owner of record that a hearing may be requested in writing within ten days of such notice. Such request for hearing shall be directed to the chief of police of the City of College Place or his designee on a form provided by the city for that purpose. If no hearing is requested within ten days, the vehicle will be removed.

(C) If a request for a hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or parts thereof as a public nuisance shall be mailed, by certified 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 record unless the vehicle is in such condition that the identification numbers are not available to determine ownership.

(D) The owner of the land on which the vehicle is located 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 reasons for the 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 subsequently acquiesced in its presence, then the City of College Place shall not assess costs of administration or removal of the vehicle against the owner of the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner.

(E) Costs of removal of vehicles or parts thereof shall be assessed against the last registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle or automobile hulk has complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored, unless the property owner establishes the facts set forth above in subsection D of this section.

(F) This section shall not apply to:

(1) A vehicle or parts thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(2) A vehicle or parts thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130.

(G) After notice has been given on the intent of the city to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or parts thereof shall be removed at the request of the law enforcement officer with written notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked.

Section 9. Stolen and abandoned vehicles.

(A) It shall be the duty of the Chief of Police to report immediately to the Chief of the Washington State Patrol all motor vehicles reported to him as stolen or recovered. Entry of vehicles reported stolen into the access system shall satisfy this requirement.

(B) It is unlawful for any person who has recovered a vehicle that he reported stolen to fail to report the recovery of such vehicle to the Chief of Police within 24 hours following recovery.

Section 10. Impounding not to prevent prosecution. The impounding of a vehicle shall not preclude charging the violator with any violation of the law on account of which such vehicle was impounded.

Section 11. Contract with registered disposer to dispose of vehicles.

(A) The city may contract with any tow truck operator who is registered as a registered disposer by the department for the purpose of disposing of junk motor vehicles and abandoned vehicles.

(B) Any registered disposer under contract to the city for the removing and storing of vehicles shall comply with the administrative regulations relative to the handling and disposing of vehicles as may be promulgated by the chief of police.

Section 12. Unlawful to abandon junk vehicles. No person shall leave or abandon a junk motor vehicle on private property without the permission of the person having the right to possession of the property. No person shall leave or abandon a junk vehicle upon or within the right-of-way of any public way or other property open to the public for purposes of vehicular travel or parking. Any person convicted of violating this section shall be assessed any and all costs incurred by the city in disposing of such vehicle.

Section 13. Inventory of impounded vehicles. All vehicles impounded at the direction of a police officer shall be examined and its contents inventoried for the protection of all parties concerned including, but not limited to, the city's police department, the investigating officer, the vehicle owner, the vehicle driver and the tow truck operator. The following procedures shall be observed:

(A) Locked vehicles shall be inventoried to the extent possible by listing on the inventory sheet those items of apparent value that can be observed through the window.

(B) Contraband or evidence of a crime inadvertently discovered during the inventory process shall be noted on the inventory sheet as seized property and then placed into the department's property system.

(C) Periodically, officers may feel the necessity to take custody of inventoried items having a large monetary value that might present a risk of liability to the department due to the possibility of damage or theft if left with the remaining contents. Specific notation of any item in this category shall bear the reference "seized" in the item column of the inventory report with a corresponding check mark in the "PH-property hold" section of the report.

(D) Any significant or noticeable damage to any item shall be documented for the purpose of providing a defense to allegations of careless mishandling during the inventory process. Should the officer accidentally damage an item during the inventory process, a separate report shall be submitted to the chief of police noting the description of such item, the resulting damage and how the accident occurred.

(E) Specific notation of all vehicles not inventoried prior to impoundment, including the reasons for not doing so, shall be made using the "item and location" columns of the inventory sheet.

(F) Items bearing a serial number should have that number documented in the "item" column following the identification of same. Items suspected of being stolen should be checked through the National and Washington Crime Information Centers to determine if stolen in fact.

(G) The condition of the vehicle shall be documented, noting any exterior or interior damage, prior to allowing the tow truck operator to hook onto it.

(H) Should any special condition affecting the release of the vehicle exist, that condition shall be documented as part of the inventory record.

(I) Upon completion of the inventory process, the record shall be signed by the officer and the tow truck operator.

(1) The original of this form shall be retained by the officer and placed in numerical order on the police complaint board.

(2) A copy of the inventory record shall be furnished to the tow truck operator upon its completion.

Section 14: Penalties. Except as otherwise provided herein, any person violating any provision of this chapter shall be guilty of an infraction and shall be punished by a maximum penalty of \$250.00, together with costs incurred by the city in removing and disposing of such vehicle.

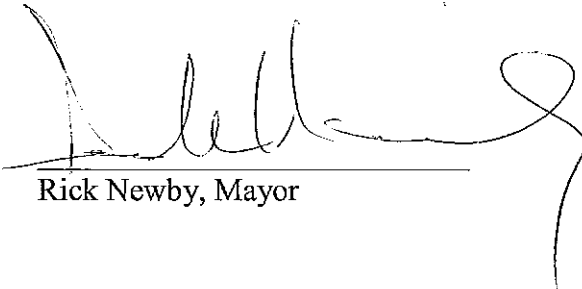
Section 15: Repealer. Ordinance No. 848 is hereby repealed.

Section 16: Savings Clause. Ordinance No. 848, which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance.

Section 17: Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.


Section 18: Effective Date. This ordinance shall take effect five days after its passage, approval and publication as by law provided.

Passed by the City Council of the City of College Place, at a regular meeting thereof this 13th day of May, 2013.



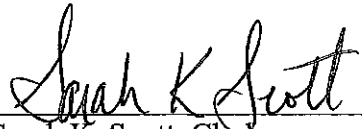
Rick Newby, Mayor

Approved as to Form:



Charles B. Phillips, City Attorney

Attest:



Sarah K. Scott, Clerk