

An Ordinance of the Haines Borough amending Haines Borough Code Title 10 Chapter 10.04 Authority Sources to revise the process for disposing of abandoned vehicles.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Chapter 10.04: Chapter 10.04 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

10.04.010 Impound authority Officers authorized to remove and impound vehicles.

~~13 AAC 02.345.~~

A. If a vehicle is in violation of the provisions of 13 AAC 02.340 -- 372, or is left on a roadway or under circumstances which obstruct the normal movement of traffic, a police officer or other designated borough employee may move the vehicle, or require the driver or other person in charge of the vehicle to immediately move the vehicle to a position off the roadway or to a safe place on the roadway.

B. A police officer or other designated borough employee may cause to be impounded and immediately removed to a place of storage a vehicle which

1. is found in the borough and which has been previously reported stolen or taken without the owner's consent;

2. is found or operated on a public road, highway, area or facility without license plates or other evidence of registration or which evidence is false with respect to that vehicle;

3. is found or presumed to be an abandoned vehicle as defined in HBC 10.04.030; or

4. is found to be parked or abandoned in violation of city or state law upon a public roadway or parking area and removal is deemed necessary for safety or maintenance purposes, including snow plowing.

C. When a police officer arrests and detains the driver of a motor vehicle the officer shall impound and remove the vehicle to a place of storage; however, the officer shall inform the driver that he or she may elect to have another immediately available person, who is legally licensed to drive a motor vehicle, drive or otherwise remove the vehicle as the driver directs. The driver may designate the nearest available garage or tow car operator of his or her choosing to remove the vehicle. If the driver does not so indicate, the officer shall make the arrangements necessary to remove the vehicle to the place and in the manner utilized for other impounded vehicles pursuant to this chapter.

D. When a vehicle is impounded and removed from a road, highway or elsewhere at the discretion of a police officer, the vehicle shall be removed to a place of storage. The owner or driver may claim the vehicle by securing a written release for it from the police officer or agency

ordering its removal. A vehicle legally removed or impounded may not be released or used by the owner until the officer or the department authorize its release. The expense for the removal and storage must be paid by the owner or driver of the vehicle.

10.04.020 Impound authority (abandoned vehicle) Authority to remove and impound abandoned vehicles.

~~AS 28.11.030.~~

A. A police officer or an employee or other person designated by the borough may cause any abandoned vehicle on public property or a right-of-way to be removed and impounded to a place for storage by following the procedures set forth in this chapter, except that any stopped or abandoned vehicle that is deemed a safety hazard, or which impedes traffic or maintenance, including snow plowing, may be immediately removed to a place of storage prior to initiating impoundment proceedings.

B. A police officer or an employee or other person designated by the borough may cause an abandoned vehicle to be removed from private property and impounded only upon the written request by the owner or person in lawful possession or control of the property, and only after a finding by the borough that the vehicle is abandoned pursuant to this chapter.

C. A written report of the removal and the facts supporting the determination that the vehicle is an abandoned vehicle as defined in HBC 10.04.030 shall be made by the person responsible for moving a vehicle under this section, and the report shall be sent to the borough police department, Public Works department, and the person who stores the property. The report must describe the vehicle, the date, time, and place of removal, the grounds for removal, and the place of impoundment of the vehicle.

10.04.030 Abandoned vehicle definitions.

For the purposes of this title, an "abandoned vehicle" is defined as one that is:

A. Left unattended within 10 feet of the roadway in excess of 48 hours;

B. Left unattended on private property in excess of 24 hours without written permission from the owner of the property; ~~or~~

C. Left on public property without consent of the manager for more than 30 days; or

D. Determined to be a public nuisance, a health or safety hazard, or an impediment to traffic or maintenance operations.

~~**10.04.040 Seizure of defective/unsafe vehicles.**~~

~~AS 28.05.091.~~

10.04.050 Operator must submit to vehicle inspection.

~~13-ACC-04.006.~~

A police officer having reasonable cause to believe that a vehicle is unsafe, not equipped as required by law, or that its equipment is not in proper adjustment or repair, may require the driver of the vehicle to stop and submit the vehicle to an inspection and tests as may be appropriate.

10.04.060 Request operator's license re-examination.

If the chief of police has good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, the chief may request the Department of Public Safety to require the licensee to submit to an examination under AS 28.15.091.

10.04.065 Impound procedures for abandoned vehicles.

A. If the borough has reason to believe a vehicle is abandoned as defined in HBC 10.04.030, the responsible borough employee shall notify the clerk of such belief and the reasons therefore. Except in the case where immediate removal is authorized by this code or other law, the clerk shall then provide notice by registered or certified mail, return receipt requested, of the borough's intent to move and impound the vehicle to the owner of record and any lienholders that can be identified, if any. The borough shall provide similar notice to the owner of any vehicle that has been moved for safety or other reasons as soon as practicable, and in any event not later than 48 hours after moving the vehicle. The notice of intent shall include a description of the vehicle, including make, model, and vehicle identification number (VIN) if possible, as well as the location of the vehicle, a general summary of the reasons the borough believes the vehicle has been abandoned, and a statement that the owner or lienholder may contest the determination that the vehicle has been abandoned by responding to the notice within fifteen (15) business days. The borough may move and impound an abandoned vehicle that is not registered in the state, or for which the name and address of the registered or legal owner or lienholder cannot be ascertained after reasonable inquiry, without providing the notice described in this subsection provided; however, that notice of impoundment must be provided as required by HBC 10.04.065(D).

B. A vehicle owner or lienholder receiving notice of intent to impound may reclaim and move the vehicle, or may dispute that the vehicle is abandoned by providing any relevant information to the clerk in writing within 15 business days of the date the notice of intent was mailed.

C. After considering any additional information presented by the owner or lienholder, if any, and the responsible borough employee, the clerk shall make a final determination as to whether the vehicle is abandoned. The clerk's decision may be appealed administratively to the Alaska Superior Court, First Judicial District, within 30 days of the clerk's decision, but in no event shall an appeal prevent or delay the removal of the abandoned vehicle. However, an abandoned vehicle shall not be sold while an appeal is pending.

D. Upon the clerk's determination that a vehicle is abandoned, the borough may remove the vehicle or cause the vehicle to be removed to a safe location. The borough clerk shall, within 7 days of removal:

1. personally deliver or cause to be delivered, or send by registered or certified mail, return receipt requested, written notice to the vehicle owner of record and to lienholders of record stating the grounds for removal, the location of the place of impoundment of the vehicle, and a statement that the vehicle may be redeemed by paying the appropriate costs and fees as required by this chapter. The giving of notice by mail is considered complete upon the return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed; or

2. if the vehicle is not registered in the state or the name and address of the registered or legal owner or lienholder cannot be ascertained after reasonable inquiry, cause to be published in a newspaper of general circulation within the Borough a notice of the impoundment, the location of the place of impoundment of the vehicle, and statement that the vehicle may be redeemed by paying the appropriate costs and fees.

10.04.070 Vesting of title.

In accordance with AS 28.11.050, ~~title to an impounded vehicle not reclaimed by the registered owner, the~~ **a** lien holder, or other person entitled to possession of the vehicle within 15 **business** days of the **day** notice **is mailed or published, as applicable,** provided by AS 28.11.040 ~~(except that the word "department" as used therein shall refer to the clerk)~~ vests with the Haines Borough. **However, nothing in this section prohibits a lien under HBC 10.04.110.**

10.04.080 Redemption of vehicles.

A person who presents satisfactory proof of ownership or right to possession may redeem a vehicle removed under this chapter before auction or relinquishment under HBC 10.04.090 **by paying** ~~upon presentation of evidence that~~ **the** charges of towing, storage, notice, and other costs of impoundment ~~have been paid.~~

10.04.090 Disposal of impounded vehicles.

A. When title to a vehicle has vested in the Haines Borough under HBC 10.04.070, the vehicle may be disposed of:

1. By **removal to a scrap processing yard or auto wrecker for disposal or by** public auction **conducted not less than** 20 days after notice **describing the** ~~of sale~~ **vehicle with reasonable particularity and the place, date, and time that the vehicle will be sold or disposed of** is

a. published in a newspaper of general circulation in the borough; **and,** ~~during which 15-day period notice shall be~~

b. posted continuously in at least three public places **in the borough.** ~~The published and posted notice shall describe the vehicle and set out the place, date, and time at which it will be sold.~~

2. By relinquishment in favor of a towing or storage lien when the clerk determines that the lien amount exceeds the fair market value of the vehicle; **or:**

3. By any other reasonable means provided that notice of the disposal is provided to the owner or lienholders, if known, not less than 20 days prior to the proposed disposal.

B. The title certificate and registration of a disposed vehicle, if available, and a copy of the bill of sale or relinquishment of title, along with a copy of the notice published and posted under subsection (A)(1) of this section, shall be surrendered to the Alaska Department of Administration within 10 days of the disposal.

C. A vehicle disposed of under this section **by public auction** must be registered and titled **by the purchaser** as provided in AS 28.10.

D. Notwithstanding the provisions of this section, the borough may initiate a civil action against a driver or registered owner of **an abandoned** vehicle ~~that is abandoned~~ **that is** in violation of AS 28.11.010 and impounded under AS 28.11.030 **pursuant to this chapter** for costs exceeding receipts from disposal of the vehicle.

10.04.100 Disposal facilities.

The borough may by ordinance designate appropriate areas within the borough for disposal of abandoned vehicles **or may make other arrangements to dispose of the vehicles.**

10.04.110 Towing and storage lien on abandoned vehicle.

~~AS 28.11.090.~~

The borough, or another person or entity authorized by contract or other official order to remove a vehicle, shall have a lien in the amount of towing, storage, and mailing charges upon a vehicle towed, moved, or stored by and in the possession of the person in accordance with AS 28.10.502.

10.04.120 Vehicle defined.


In this chapter, "vehicle" means a

A. passenger car, motor home, bus, truck, truck-tractor, motorcycle, motorbike, or similar motor vehicle that is designed for use primarily to transport a person or to transport or draw property on a highway or vehicular way; and

B. snowmobile, three-wheeler, four-wheeler, or a similar off-highway motor vehicle designed or adapted for cross-country operation over unimproved terrain, ice, or snow and that has been declared by its owner at the time of registration and determined by the Department of Public Safety to be unsuitable for general highway use, although the vehicle may make incidental use of a highway, but not including implements of husbandry or special mobile equipment, such as construction machinery or earthmoving equipment.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 10th DAY OF JULY, 2018.

ATTEST:


Alekka Fullerton, Borough Clerk




Janice Hill, Mayor

Date Introduced: 06/12/18
Date of First Public Hearing: 06/26/18
Date of Second Public Hearing: 07/10/18