

CHAPTER 668

Storage of Junk Motor Vehicles

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CROSS REFERENCES

668.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicle Ordinance."

668.02 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "City" shall mean the City of Ewart.

(b) "Junked motor vehicle" shall mean any motor vehicle, as defined by subsection

(c) hereof, the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned, or discarded.

(c) "Motor vehicle" shall mean any vehicle which is self-propelled and designed to travel along the ground, and shall include, but not be limited to, automobiles, buses, motor-bikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers, and snowmobiles.

(d) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(e) "Private property" shall mean any real property within the City which is privately owned and which is not public property as defined in this section.

(f) "Public property" shall mean any street or highway, which shall include: the entire width between the boundary lines, and shall also mean any other publicly owned property or facility.

668.03 STORING, PARKING, OR LEAVING DISMANTLED MOTOR VEHICLE PROHIBITED; DECLARATION OF NUISANCE; EXCEPTIONS.

No person shall park, store, leave or permit the parking, storing or leaving of any motor vehicle of any kind which is in a dismantled condition, whether attended or not, upon any public or private property within the City for a period of time in excess of seventy-two hours. The presence of an abandoned, wrecked, dismantled vehicle, or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any vehicle enclosed within a building on private property, or any vehicle retained by the owner for antique collection purposes. A motor vehicle, truck or automobile not licensed and in inoperable condition which is in the process of being restored as an "Antique" may be stored outside a permanent building for more than 30 days only after the owner of such motor vehicle, truck or automobile presents a valid title and receives a permit from the City Manager of the City of Ewart. Such permit to be valid for a period of six (6) months, after such time said motor vehicle, truck or automobile must be licensed by the State of Michigan as an "Antique" or stored inside a permanent building.

668.04 NOTICE TO REMOVE.

Whenever it comes to the attention of the City Police that any nuisance, as defined in Section 668.02, exists in the City of Evert, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his or her agent, notifying him or her of the existence of the nuisance and requiring its removal in the time specified in this chapter.

668.05 RESPONSIBILITY FOR REMOVAL.

Upon proper notice and an opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the City, the owner or occupant of the private property where the same is located shall be liable for the expense incurred.

668.06 NOTICE PROCEDURE.

The Chief of Police of the City shall give notice of removal to the owner or occupant of the private property where it is located, at least ten days before the time of compliance. It shall constitute sufficient notice when a copy of the same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner or occupant of the private property at his or her last known address.

668.07 CONTENT OF NOTICE.

The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise that upon failure to comply with the notice to remove, the City or its designee shall undertake such removal, with the cost of removal to be levied against the owner or occupant of the property.

668.08 REQUEST FOR HEARING.

The persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the Compliance Board of the City of Evert within the seven day period of compliance prescribed in Section 668.06 for the purpose of defending the charges by the City. The Compliance Board shall consist of the City Manager, the Chief of Police and the Mayor or his or her designee.

668.09 PROCEDURE FOR HEARING.

The hearing shall be held as soon as practicable after the filing of the request, and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least seven days in advance thereof. At any such hearing the City and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.

668.10 REMOVAL OF MOTOR VEHICLE FROM PROPERTY.

If the violation described in the notice has not been remedied within the ten day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the Compliance Board of the City of Evert or its designee, the Chief of Police or his or her designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

668.11 NOTICE OF REMOVAL.

Within forty-eight hours of the removal of such vehicle, the Chief of Police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for a violation of this chapter. The notice shall give the location of where the vehicle is stored, and the costs incurred by the City for removal thereof.

668.12 DISPOSITION OF VEHICLES.

Upon removing a vehicle under the provisions of Section 668.10, the City shall, after ten days, cause it to be appraised. If the vehicle is appraised at five hundred dollars (\$500.00) or less, the Chief of Police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The Chief of Police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over five hundred dollars (\$500.00), the Chief of Police shall give notice of public sale not less than thirty days before the date of the proposed sale.

668.13 CONTENTS OF PUBLIC SALE NOTICE.

The notice of sale shall state:

- (a) That the sale is of abandoned property in the possession of the City.
- (b) A description of the vehicle, including make, model, license numbers and any other information which will accurately identify the vehicle.
- (c) The terms of the sale.
- (d) The date, time and place of the sale.

668.14 PUBLIC SALE

The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale in duplicate, the original of which shall be given to the purchaser, and a copy thereof shall be filed with the Clerk of the City. Should the sale, for any reason, be invalid, the City's liability shall be limited to the return of the purchase price.

668.15 REDEMPTION OF IMPOUNDED VEHICLES.

The owner of any vehicle seized 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 Clerk of such sum as he or she may determine and

fix for the actual and reasonable expense of removal, and any preliminary sale advertising expenses, along with any storage fees plus attorney fees.

668.16 LIABILITY OF OWNER OR OCCUPANT.

Upon the impounding of a vehicle under this chapter, a lien shall be placed upon property from which the impounded vehicle has been removed by the City in order to pay the unrecovered expenses incurred by the City in such removal, for the amount of each expense.

668.99 PENALTY.

(1) **First Offense** – The first violation of the above rules shall be a civil infraction, punishable by a fine not to exceed \$100.00 plus costs.

(2) **Second Offense** – The second violation of the above rules, within a 3 year period, shall be a civil infraction, punishable by a fine not to exceed \$200.00 plus costs.

(3) **Third Offense** – The third or more violation of the above rules, within a 3 year period, shall be a misdemeanor punishable by a fine of not greater than \$500.00 plus costs and/or jail sentence not to exceed 93 days in jail.