

**CODIFIED LAW #24**  
**TOWN OF MISSION HILL**

***ABANDONED OR JUNK MOTOR VEHICLES AND RELATED MATERIAL***

BE IT ORDAINED by the President and Board of Trustees of Mission Hill, South Dakota:

**Sec. 1. Abatement of nuisances by injunction; other remedies not precluded.**

This Ordinance is intended to replace and supercede Ordinance #91.

**Sec. 2. Abatement of nuisances by injunction; other remedies not precluded.**

When any person shall do any act declared to be a nuisance by this or any other Ordinance of the Town, in addition to the remedies set forth in this or any other Ordinance of the Town, the Town may commence and complete an action in the proper courts to restrain a violation of the provision of this Town Ordinance or such nuisance by injunction, or other similar remedy. In addition, an action for abatement may be commenced by the Town attorney at the request of the Board of Trustees. The Town shall also be entitled to take advantage of any other remedy available to it under the law. Action authorized by this Ordinance shall not be a bar to prosecution under this or any other Ordinance of the Town.

**Sec. 3. Abandoned or junked motor vehicles and related material.**

(a) Declaration of public interest in disposal.

Abandoned or junked motor vehicles and other related scrap material constitute a hazard to the health and welfare of the people of the Town in that such vehicles and other scrap material can harbor noxious diseases, furnish shelter and breeding places for vermin and present physical danger to the safety and well being of children and other citizens. Abandoned and junked motor vehicles and other related scrap material also constitute a blight on the landscape of the Town, and, therefore, are a detriment to property values and the environment. The indiscriminate abandonment and retirement of motor vehicles and other related scrap material also constitute a waste of valuable sources of useful metal, rubber and other recyclable material. It is therefore in the public interest that the present accumulation of abandoned and junked motor vehicles and other related scrap material be eliminated; that future abandonment or junking of motor vehicles and other scrap material be discouraged, and that acceptable and economically useful methods for the disposal of abandoned or junked motor vehicles and other related material be developed.

(b) Definition of terms.

Terms used in this section, unless the context otherwise requires, mean:

- (1) Motor vehicle: Shall include automobiles, motor trucks, motorcycles, trailers, house trailers, trailer coaches, cabin trailers, campers, all-terrain vehicles, boats and other watercraft, and all vehicles propelled by power other than muscle power.
- (2) Abandoned motor vehicle: A privately owned motor vehicle that is left on public property longer than forty-eight (48) hours or a privately owned motor vehicle that is in an inoperable or unusable condition or is not currently licensed and is left on private property and remaining at least partially visible from any public or

private property for more than ten (10) days.

- (3) Junked motor vehicles: Any motor vehicle which has been placed on the property of a recognized and licensed junk dealer for the purposes of salvage.
- (4) Removal agency: The Town or any private individual, business or organization hired by the Town to remove and salvage abandoned or junked motor vehicles and other scrap material.
- (5) Related scrap material: Waste or refuse materials and/or composites thereof related to motor vehicles, such as vehicle bodies and/or parts thereof, engine blocks and/or parts thereof, transmission and/or parts thereof, axles, wheels, tires, seats, door panels, bumper covers, motor vehicle accessories such as hitches, toppers, trailers not in seasonal use for their specified purpose, and/or any other materials and/or composites thereof related to motor vehicles.
- (6) Appropriate enclosure: A fence, enclosure or other similar boundary, which is of appropriate construction, and which completely protects any abandoned or junked motor vehicles and related scrap material within the enclosure from view from any other public or private property.
- (7) Inoperable or unusable condition: A motor vehicle is considered in an inoperable or unusable condition if the vehicle cannot operate and move under its own motor power.
- (8) Appropriate construction: An appropriate enclosure is considered of appropriate construction only when it stands straight and vertical of its own accord, is not dilapidated or run down, is completely and uniformly painted or stained a single color with no chipping of the paint, is not showing visible signs of rot or rust, and complies with all other Ordinances of this Town regulating fences, enclosures or other similar boundaries.

#### **Sec. 4. Storing, parking, or leaving motor vehicles and abandoned or junked motor vehicles prohibited and declared nuisance; exceptions.**

No person shall park, store or leave or permit the parking, storing or leaving of any abandoned or junked motor vehicle or related scrap material as defined by this Ordinance, whether attended or not, upon any public property within the Town for a period of time longer than forty-eight (48) hours or on any private property for a period of time longer than ten (10) days. The presence of abandoned or junked motor vehicles or related scrap material is hereby declared a public nuisance and a violation of this Ordinance. In addition to remedies provided under state law, such a nuisance may be abated in accordance with the provisions of this and/or any other Ordinance of the Town. This section does not apply to abandoned or junked motor vehicles and related scrap material entirely enclosed within a building on private property or stored or left within an appropriate enclosure on private property so long as no part of the vehicles or related scrap material are visible from any other public or private property.

#### **Sec. 5. Notice to remove and removal from public property; Interference unlawful.**

Whenever any law enforcement officer, Town official, or other designated agent of the Town finds an abandoned or junked motor vehicle or related scrap material on public property, the officer, official, or agent shall place written notice on the vehicle indicating the date and time

such notice is given and stating the vehicle will be removed unless the owner removes the vehicle from public property within forty-eight (48) hours of the giving of the notice. If the vehicle or related scrap material is not removed after the expiration of the forty-eight (48) hour period, the owner of the vehicle shall be deemed in violation of this Ordinance and the removal agency may be directed to remove the vehicle or scrap material to a designated place of storage. Notwithstanding this section, any law enforcement officer, Town official, or other designated agents of the Town are specifically permitted to remove a motor vehicle which objectively causes an obstruction or hazard to traffic or the public or is evidence in any criminal investigation.

It shall be unlawful for any person to interfere with, hinder or refuse to allow removal agents to remove a vehicle or related scrap material under the provisions of this Ordinance, and any such interference shall be punishable by a fine of Two Hundred Dollars (\$200.00) per occurrence, in addition to other available remedies and sanctions.

#### **Sec. 6. Notice to remove from private property.**

Whenever it comes to the attention of the Town Board or its designee that any abandoned or junked motor vehicle and/or related scrap material exists in the Town upon private property, the Town shall send written notice to the owner and lien holder of any abandoned or junked motor vehicle and/or related scrap material and the owner and occupant of the property on which the same is located of the need to remove the vehicle or related scrap material. The notice shall be sent by certified mail and shall give the owner, lien holders, and property owner and occupant fifteen (15) days from the date notice was sent to remove the vehicle or related scrap material from the private property.

#### **Sec. 7. Responsibility for removal from private property; removal by removal agency; interference unlawful.**

The owner of the abandoned or junked motor vehicle or related scrap material and the owner and occupant of private property on which the same is located, either or all of them, shall be responsible for its removal. In the event the vehicle or related scrap material is not removed within fifteen (15) days of sending notice as provided in Sec. 6 above, the owner of the vehicle or related scrap material and the owner and occupant of the private property on which the same is located shall be deemed in violation of this Ordinance, and the removal agency may be directed to remove the vehicle or related scrap material to a designated place of storage. It shall be unlawful for any person to interfere with, hinder or refuse to allow such removal agents to enter upon private property for the purpose of removing a vehicle or scrap material under the provisions of this Ordinance, and any such interference shall be punishable by a fine of Two Hundred Dollars (\$200.00) per occurrence, in addition to other available remedies and sanctions.

#### **Sec. 8. Notice to owner and lien holder after removal; reclaiming property.**

Within ten (10) days after any abandoned or junked motor vehicle, or other related scrap material has been removed as provided in Sec. 5 or Sec. 7 above, the Town shall send written notice of the removal by certified mail to the registered owner, lien holder, and private property owner on which such vehicle or vehicles is located at their last known addresses. The notice shall set forth the date and place of the removal, the place where the vehicle or scrap material is being stored, and the year, the make, model and serial number of the abandoned or junked motor vehicle or related scrap material, or if that is not possible, a general description of the abandoned or junked motor vehicle or related scrap material. The notice shall also inform the owner and any lien holder, if applicable, of their right to reclaim the vehicle or related scrap material and that should

the vehicle or related scrap material not be claimed within thirty (30) days, title to the vehicle or related scrap material will irrevocably vest in the Town.

If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in a newspaper of general circulation in the area where the vehicle or related scrap material was abandoned.

**Sec. 9. Vesting of title in Town after notice sent; time allowed for holder of title to reclaim; sale of vehicle or related scrap material; payment of costs**

Within thirty (30) days from the date on which notice of removal was sent as provided in Sec. 8 above, the owner and any lien holder of the vehicle or related scrap material may reclaim the vehicle or related scrap material by notifying the Town in writing of his or her intent to reclaim the motor vehicle. If the owner or lien holders fail to so reclaim the motor vehicle or other related scrap material within thirty (30) days from the date on which notice of removal was sent as provided in Sec. 8 above, title to the vehicle or related scrap material shall irrevocably vest in the Town. Despite the fact that title has vested in the Town, the owner of the abandoned or junked motor vehicle or related scrap material and the owner or occupant of private property on which the vehicle or scrap material was removed shall remain responsible for all fines and costs of removal, storage, and sale.

After title has vested in the Town, at the option of the Town, the vehicle or related scrap materials may be sold at auction or on the open market. Proceeds of the sale shall first go to satisfy all fines and costs associated with removal, storage and sale. The owner of the vehicle or related scrap material shall remain responsible for any deficiency between the total value of the fines and costs and the amount raised by sale.

**Sec. 10 Possessory lien on reclaimed vehicles or related scrap material.**

The owner or any lien holder shall not recover possession of and the Town shall maintain a possessory lien against a vehicle or related scrap material reclaimed under Sec. 9 above until all fines and costs associated with removal and storage have been paid.

If the owner or lien holder fails to pay all fines and costs of removal and storage within thirty (30) days after the vehicle or related scrap material has been reclaimed, the property shall be sold at auction or on the open market. Proceeds of the sale shall first go to satisfy all fines and costs associated with removal, storage and sale. The owner of the reclaimed vehicle or related scrap material shall remain responsible for any deficiency between the total value of the fines and costs and the amount raised by sale, and the Town will return any excess to the owner.

**Sec. 11. Application for title.**

With respect to any abandoned or junked motor vehicle to which the title has irrevocably vested in the Town as provided in Sec. 9 above, the Town shall apply to the Department of Revenue and Regulation for a salvage title for any salvage or junk vehicle. If a vehicle is not a salvage or junk vehicle, the Town shall apply for a certificate of title to the department. Such title when issued shall be stamped on the front and back with the words "abandoned vehicle." If the title to the motor vehicle is a salvage title or a rebuilt title, a salvage or rebuilt title shall be issued for the vehicle.

When applying for a certificate of title or salvage title, the Town shall be subject to the requirements of SDCL Chapter 32-3. If an owner or lien holder does not surrender the title to the motor vehicle to the Town, the Town shall submit, with its application for title, a copy of this Ordinance, copies of its written notice(s) required by Sec. 8 above and an affidavit stating the

notice(s) were sent and listing the persons to whom notice was sent.

**Sec. 12. Designation of removal agency.**

The Town Trustees may by resolution designate and/or hire any individual, business or organization as a removal agency to remove abandoned and junked motor vehicle and related scrap material to a designated place of storage. Alternatively, by resolution the Town Trustees may appoint its own official, employee, or other agent to act as a removal agency or may appoint its own official, employee, or other agent to designate and/or hire any individual, business or organization as a removal agency. The hired or appointed removal agency shall have the authority of a removal agency as outlined in this Ordinance subject to such limitations as may be established by resolution of the Board of Trustees. The Town Trustees may also by resolution designate an official place of storage for all abandoned and junked motor vehicles or related scrap material removed under this Ordinance.

**Sec. 13. Penalties.**

Any person in violation of any Section of this Ordinance may be fined up to Two Hundred Dollars (\$200.00) per violation. The owner of the abandoned or junked motor vehicle or related scrap material and the owner and occupant of the private property from which the vehicle or material was removed, either or all of them, shall be responsible for all fines and costs of removal. The owner of the vehicle or related scrap material is also responsible for all costs associated with storage and conducting any sale of the vehicle or related scrap material as provided in Sec. 9 or Sec. 10 above.

**Sec. 14. Presumption of ownership by landowner.**

For purposes of this Ordinance, if no person otherwise claims ownership of an unlicensed and abandoned or junked motor vehicle or related scrap material removed under Sec. 7 above, there shall be a rebuttable presumption that the owner and occupant of the private property from which the same was removed is also the owner of the vehicle or material so removed.

**Sec. 15. Severability.**

This Ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

IN WITNESS WHEREOF, the Town Board of the Town of Mission Hill has duly adopted this ordinance and caused it to be executed by the officers of the Board of Trustees of Mission Hill, South Dakota.

Scott Vanburen  
Town Board President

LeAnne J. Cutts  
Finance Officer