

ORDINANCE NO. 769

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3 OF THE CITY CODE OF THE CITY OF SOLOMON, KANSAS, BY AMENDING SECTIONS 8-305, 8-307, 8-308, 8-309, 8-310, 8-311, 8-312, AND 8-313, ALL CONCERNING JUNKED AND INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY, AND REPEALING THE EXISTING SECTIONS.

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF SOLOMON, KANSAS:

SECTION 1. Section 8-305 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-305. NOTICE OF VIOLATION.

Whenever the public officer determines there has been a violation of this article or has grounds to believe that a violation has occurred, a written Notice of Violation and Order of Abatement (“Notice and Order”) shall be given to the property owner, any known agent of the property owner, and any other person deemed responsible for the violation.

SECTION 2. Section 8-307 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-307. ORDER OF ABATEMENT.

The Notice and Order shall provide information sufficient to reasonably allow the recipient to determine the nature of the actions required to self-abate the violation and specify a reasonable time period for completion of the self-abatement. A reasonable time to abate the violation shall be presumed not to exceed ten days in accordance with K.S.A. 12-1617e(b), subject to extension upon the authority of the public officer following a demonstration of due diligence in the self-abatement of the violation.

SECTION 3. Section 8-308 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-308. REQUEST FOR HEARING.

The recipient of the Notice and Order may request a hearing before the governing body, pursuant to Section 8-312, by completing and filing a written “Request for Hearing” form in the office of the city clerk prior to the close of business on the date of the deadline for self-abatement of the violation as stated in the Notice and Order. The timely filing of a request for hearing shall stay the enforcement of the Notice and Order until the appeal can be heard and decided by the governing body.

SECTION 4. Section 8-309 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-309. FORM.

The Notice and Order shall:

1. Include a description of the subject real estate sufficient for identification;
2. Include a statement of the nature of the violation and including relevant citations to this article, with sufficient information that would reasonably allow the recipient to determine the nature of the violation to allow for self-abatement;
3. Include an order of abatement allowing a reasonable time to take the actions required to self-abate the violation;
4. Inform the recipient of the Notice and Order of the right to a hearing if the recipient completes and files a written request for a hearing form in the office of the city clerk prior to the close of business on the date of the deadline for self-abatement of the violation;
5. Inform the recipient that failure to comply with the Notice and Order may result in the City abating the violation and recovering any costs not paid by the recipient within thirty days of a notice of costs by (a) assessing of any costs against the subject real estate or (b) filing suit seeking a personal judgment against the recipient; and
6. Inform the recipient that the violation is subject to prosecution.

SECTION 5. Section 8-310 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-310. SERVICE OF NOTICE AND ORDER. The Notice and Order shall be served either by certified mail, return receipt requested, or by personal service; provided, however, if the subject real estate is unoccupied and the owner is a non-resident, then by mailing the Order by certified mail, return receipt requested to the last known address of the owner. If a person to whom a Notice and Order is directed for service has failed to accept delivery or otherwise failed to effectuate receipt of a Notice and Order pursuant to this section during the preceding 24-month period, the City may provide notice of the issuance of any further Notice and Order by such other methods as door hangars, conspicuously posting notice of such order on the subject property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, the alternative means of notice provided by this section shall be given by telephone communication or first class mail. Destroying or tampering with any means of posting notice of such order on the subject property shall be a separate violation.

SECTION 6. Section 8-311 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-311. ABATEMENT BY CITY; ASSESSMENT AND COLLECTION OF COSTS.

- (a). If the recipient of the Notice and Order fails to comply with the Order within the period of time designated in the Order, then the City may go onto the property to abate the violation in a reasonable manner. The City may use its own employees or contract for services to abate the violation. The City, or its agents, shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for

damages to property in the reasonable exercise of its duty to the public to abate the violation(s).

(b). Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended. Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.

(c). If the City takes action to abate the violation, it shall provide a notice of costs to the person responsible for the violation. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the notice of costs shall also be posted on the property in a reasonable manner. The recipient shall have thirty days from the date of the notice of costs to make full payment. The notice of costs shall state:

1. The description of the subject real estate sufficient for identification;
2. The nature of the work performed to abate the violation;
3. The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
4. That the notice is a demand for payment within thirty days from the date of notice;
5. That failure to pay the entire amount within thirty days shall allow the City to file a tax lien against the property or to pursue a personal judgment for the recovery of the costs, or both;
6. That such additional remedies to recover costs shall include additional amounts including additional administrative costs, attorneys' fees when applicable, and interest;
7. The payments shall be made by check or money order made payable to the City of Solomon, Kansas, with no post-dating of the check, and sent to the address as stated within the notice with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments, unless a payment arrangement has been agreed to and approved in writing by the public officer

(d). If the payment of costs is not made within the thirty-day period, the City may levy a special assessment for such costs against the subject real estate. The City Clerk at the time of certifying other city taxes to the County Clerk shall certify such costs, and the County Clerk shall extend such costs on the tax roll of the county against the subject real estate, and it shall be collected by the County Treasurer and paid to the City as other city taxes are collected and paid. Provided further, the City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the district court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interest, court costs, attorneys' fees, and administrative costs, including but not limited to, investigative cost as well as the cost of

providing notice, including any postage, have been paid in full.

(e). The abatement of a violation of this article by the City shall not be a defense or excuse to any person in violation of this article.

SECTION 7. Section 8-312 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-312. HEARING. If a hearing is requested before the deadline for self-abatement as provided in Section 8-206, such request shall be made in writing to the city clerk. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the Notice and Order. A request for hearing shall be based upon a claim that the true intent of this article or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this article do not fully apply, or the requirements of this article are adequately satisfied by other means. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the City of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter in writing and serve a copy upon the person requesting the hearing. The decision of the governing body shall be a final order of the City.

SECTION 8. Section 8-313 of the City Code of the City of Solomon, Kansas is hereby amended to read as follows:

8-313. PENALTY.

(a). In addition to or as an alternative to the remedy of abatement as provided under this article, any person in violation of this article may be prosecuted in municipal court and subject to:

1. a fine of not less than \$50 nor more than \$500;
2. a sentence of not more than 30 days in jail;
3. such other orders as the court deems just and consistent with the purpose and intent of this article; or
4. any combination thereof.

(b). Prosecution of any offender under this article does not limit the City's right to pursue assessment or collection of costs as stated in this article, or by other laws.

(c). Each day that any violation shall continue shall constitute a separate offense.

(d). Any fines assessed under this article shall be collected by the municipal court administration and paid over to the general fund, except for assessments of court costs.

SECTION 9. Existing Sections 8-305, 8-307, 8-308, 8-309, 8-310, 8-311, 8-312, and 8-313 of the City Code of the City of Solomon, Kansas are hereby repealed.

SECTION 10. This ordinance shall be in full force and effect following its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 769 Summary

On August 5, 2024, the City Council passed Ordinance No. 769. The ordinance amends City Code Sections 8-305, 8-307, 8-308, 8-309, 8-310, 8-311, 8-312, and 8-313 pertaining to the prohibition on, and abatement of, junked and inoperable motor vehicles on private property within the city of Solomon, Kansas. A complete copy of the ordinance is available online at www.solomon-ks.com or in the office of the City Clerk, 116 W. Main, in Solomon, Kansas, free of charge. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the City Council of the City of Solomon, Kansas, this 5th day of August, 2024.

(SEAL)



ATTEST:

Andrea McCook
Andrea McCook, City Clerk

Brandy Gray
Brandy Gray, Mayor

The publication summary set forth above is certified this 5th day of August, 2024.

Aaron O. Martin
Aaron O. Martin, Legal Counsel