

AN ORDINANCE OF THE CITY OF MANOR, TEXAS, KNOWN AS THE IMPOUNDMENT ORDINANCE, REGULATING THE IMPOUNDMENT OF VEHICLES; DEFINING CERTAIN TERMS; PROVIDING FOR ADMINISTRATION; ESTABLISHING NOTICE REQUIREMENTS; ESTABLISHING REGULATIONS FOR JUNKED VEHICLES; PROVIDING FOR PENALTY; ESTABLISHING AN EFFECTIVE DATE; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND REQUIRING PUBLICATION OF NOTICE OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS:

PART 1: General.

Section 1.1 Title. This ordinance shall be known, and may be cited, as the Impoundment Ordinance of the City of Manor, Texas.

Section 1.2 Definitions.

(a) For the purpose of this Ordinance, the following terms and words are defined as indicated below:

(1) "Abandoned vehicle" means a vehicle that meets one of the following criteria:

(A) is inoperable and more than eight (8) years old and left unattended on public property for more than forty-eight (48) hours; or

(B) has remained illegally on public property for a period of more than forty-eight (48) hours; or

(C) has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours; or

(D) has been left unattended on the right-of-way of a designated county, state, or federal highway within this state for more than forty-eight (48) hours.

(2) "Antique vehicle" means a vehicle that was manufactured in 1925 or before or that is at least thirty-five (35) years old;

(3) "Authorized emergency vehicle" means vehicles of the fire department (fire patrol), police vehicles, public and private ambulances for which permits have been issued by the State Board of Health, emergency vehicles of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private vehicles operated by volunteer firemen or certified Emergency Medical Services

volunteers while answering a fire alarm or responding to a medical emergency, and vehicles operated by blood banks or tissue banks, accredited or approved under the laws of this state or the United States, while making emergency deliveries of blood, drugs, or medicines, or organs.

(4) "Collector" means the owner of one (1) or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles, or parts of them, for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

(5) "Department" or "Police Department" means the Manor Police Department and includes the regular Police Department and the Reserve Police Department, as well as the Chief of Police and all police officers.

(6) "Impound" means to take into the custody of the Police Department, or of a person, firm, or corporation under the authorization of the Police Department.

(7) "Inoperable vehicle" means a vehicle subject to registration pursuant to the Texas Certificate of Title Act that does not have lawfully affixed thereto an unexpired license plate or plates; or a vehicle that cannot be started, driven, operated, steered, and stopped under its own power and without causing damage to the vehicle, because of mechanical failure, breakdown, or disrepair or because it has been wrecked, dismantled, or partially dismantled.

(8) "Junked vehicle" means a vehicle that:

(A) is inoperable; and

(B) does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperable for a continuous period of more than forty-five (45) days.

(9) "Obstructive vehicle" means a vehicle which jeopardizes public safety by either creating an unsafe condition or significantly hindering the efficient movement of traffic.

(10) "Owner" means any person who holds the legal title to a vehicle, or has the legal right of possession thereof, or is the legally authorized agent of

such person. This does not include any person who has gained possession of a vehicle only as a result of impoundment of a vehicle.

(11) "Police officer" means an officer of Manor's Police Department or its Reserve Police Department, including the Chief of Police.

(12) "Public highway" means any public street, alley, road, right-of-way, or other public way.

(13) "Public nuisance" refers to a vehicle that is found to be detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, or is detrimental to the economic welfare of the City by producing urban blight adverse to the maintenance and continuing development of the City.

(14) "Towing company/wrecker business" means any enterprise licensed by the City of Manor to engage in the towing of vehicles on a public highway in the City of Manor for compensation or with the expectation of any type of compensation for the towing, storage, or repair of vehicles or acting as the towing agent for anyone having the expectation of receiving compensation for the towing, storage, or repair of vehicles.

(15) "Vehicle" means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a public highway or street, including, but not limited to, motor vehicles, but not including devices moved only by human power or used exclusively on stationary rails or tracks.

(16) "Vehicle depository" means the site used by the City for the impoundment and storage of vehicles.

(17) "Wrecker" means a vehicle used for the purpose of towing or removing vehicles.

(b) Terms not defined herein shall be construed in accordance with customary usage.

Section 1.3 Public Nuisance. The following are hereby declared to be public nuisances:

(1) An inoperable vehicle that is located on any public highway or public property within the City for a period of more than twenty-four (24) continuous hours; and

(2) A junked vehicle that is located in any place where it is visible from a public place or public right-of-way.

Section 1.4 Application of Regulations. The provisions of the Impoundment Ordinance are to be applied independent of, and in conjunction with, the City of Manor's Wrecker Ordinance.

PART 2: Administration.

Section 2.1 General. The procedures established in this ordinance shall be administered by City employees, except that the impoundment of a vehicle or vehicle part may be by any duly authorized person.

Section 2.2 Records. The Police Department shall maintain:

(1) A file for each vehicle coming under the purview of this ordinance, including names and addresses of all owners, lien holders, purchasers, and parties receiving notice hereunder, dates of notices and sale, return receipts, and copies of all notices, correspondence, costs, and activities related to such vehicle; and

(2) An accurate accounting of all funds collected and paid out for each vehicle, including the special fund established hereunder.

PART 3: Impoundment.

Section 3.1 General. The Chief of Police may employ the personnel, equipment, and facilities of the Police Department or hire or authorize persons, equipment, and facilities to impound and store a vehicle under this ordinance.

Section 3.2 Impoundment Authorized.

(a) A police officer may order a vehicle to be impounded if it is:

(1) Involved in a collision and the police officer determines that:

(A) The vehicle is inoperable; or

(B) Its driver is physically unable to move it safely to a location where it will not create a traffic hazard; or

(2) Determined to be abandoned; or

(3) Obstructing traffic and its driver or owner will not, or is unavailable to, move it to a location where it will not obstruct traffic; or

(4) Not an authorized emergency vehicle and is parked in a fire lane as may be required by ordinance.

(b) Upon determination by the Chief of Police that a vehicle is a public nuisance, or, if a hearing is requested, upon determination by the City Council of the City of Manor that a vehicle is a public nuisance, such impounded vehicle or vehicle part shall be ordered impounded and transported for processing as scrap under the provisions of Part 5 of this Ordinance.

Section 3.3 Prohibition. A towing company/wrecker business may not remove a vehicle from a public highway for impoundment, except under the direction of a police officer or the owner or operator of such vehicle.

Section 3.4 Fees Charged. The following fees shall be charged by by the City of Manor and collected by its Police Department in accordance with this Ordinance for the impoundment and storage of vehicles in the vehicle depository:

(a) For vehicles, other than junked vehicles:

(1) Reasonable wrecker fees charged by a towing company/wrecker business to transport a vehicle to the vehicle depository.

(2) Storage fees for each impounded vehicle at a rate of \$ 10.00 per day of impoundment for the following time periods:

(A) A period of not more than ten (10) days beginning on the day of impoundment and continuing through the day the Police Department gives or publishes notice as provided in Sections 4.2, 4.3, and 4.4, hereof; and

(B) A period beginning on the day after the day the Police Department mails or publishes notice and continuing through the day any accrued charges are paid or the vehicle is removed from the vehicle depository.

(3) The City's cost to sell such vehicle. Such cost shall be determined on a pro rata basis to the extent that a charge shall involve more than one (1) vehicle.

(b) For junked vehicles:

(1) All reasonable fees charged in connection with the removal of a junked vehicle, or parts thereof, to the vehicle depository and to the demolishers for processing.

(2) \$ 10.00 for the storage of each junked vehicle from the time of its impoundment until such time as it is taken to the demolishers for processing.

(c) For all impounded vehicles included in subsections (a) and (b), above:

(1) \$ 25.00 for the preparation and posting or mailing of each notice required under this ordinance.

(2) The actual pro rata cost per vehicle of all newspaper publications required under this ordinance.

Section 3.5 Payment of Fees.

(a) All fees incurred under this section shall be charged against, and shall be the obligation of, the party or parties to whom notice is given under the provisions of this ordinance; additionally, a lien for said amount shall exist against said vehicle to the benefit of the City of Manor.

(b) Payment of all fees incurred pursuant to this section shall be made as follows:

(1) For vehicles, other than junked vehicles:

(A) At the time of redemption of a vehicle from the vehicle depository by the person redeeming said vehicle; or

(B) If not redeemed, the fees shall be deducted from the amount paid by the purchaser of the impounded vehicle at the public auction.

(C) Any proceeds paid in excess of the charges for said vehicle, as set out above, shall be:

(i) Held for payment to the owner of the impounded vehicle for ninety (90) days;

(ii) If not redeemed within such ninety (90) day period, deposited into a special fund to remain available for the payment of costs incurred under this section, when the proceeds from a sale are insufficient to meet such costs.

(2) For junked vehicles, after they are transported to the demolishers and processed for salvage:

(A) The Police Department shall be reimbursed out of the proceeds from the sale of the salvage derived from such junked vehicle.

(B) The person receiving notice under Section 5.2, hereof, shall be billed for the difference in the costs incurred and the proceeds from the sale of the salvage. If the proceeds from the sale of the salvage exceed the costs incurred, the person receiving notice shall be paid the difference.

PART 4: Notice Requirements, Except for Junked Vehicles.

Section 4.1 Impoundment without Notice. A police officer is authorized to have a vehicle impounded without giving prior notice to, or obtaining permission from, its owner, when its owner or driver is unavailable to, or will not, move such vehicle, when it is:

(a) Involved in a collision and the police officer determines that:

(1) The vehicle is inoperable; or

(2) Its driver is physically unable to move it safely to a location where it will not create a traffic hazard; or

(b) Obstructing traffic and its driver or owner will not, or is unavailable to, move it to a location where it will not obstruct traffic; or

(c) Not an authorized emergency vehicle and is parked in a fire lane as may be required by ordinance.

Section 4.2 Impoundment with Notice.

(a) At least forty-eight (48) hours prior to impounding an abandoned vehicle from public or private property or an inoperable vehicle from public property, a police officer shall securely affix a visible, dated, brightly colored notice of intent to impound to such vehicle. A record of the date and time such notice was affixed and the location of said vehicle shall be maintained by the Police Secretary.

(b) If the vehicle was not removed from the time the visible notice of abandonment was attached thereto until

the time of the impoundment under this ordinance, such fact shall be prima facie proof that:

(1) the vehicle was left unattended for the period of time between the affixing of the notice and its impoundment; and

(2) the owner of such vehicle caused, allowed, or permitted the vehicle to remain at such location for the period of time between the affixing of the notice and the impounding of the vehicle.

Section 4.3 Personal Notice after Impoundment. The Police Department shall give notice to the owner or owners and all lien holders of record of each vehicle impounded in the vehicle depository. Such notice shall:

(1) Be in writing on stationary customarily used by the Manor Police Department;

(2) Be given not later than the tenth (10th) day after impounding the vehicle;

(3) Be sent by certified mail, return receipt requested, with a five (5) day return request;

(4) Be dated;

(5) State the location of the vehicle prior to its impoundment and give the date and time that the vehicle was impounded;

(6) Describe the year, make, model, vehicle identification number, and license number of the vehicle;

(7) Set forth the location of the vehicle depository and its hours of operation;

(8) Give notice of the right to reclaim the vehicle not later than the twentieth (20th) day after the date of the notice upon payment of all fees resulting from its impoundment;

(9) Advise that a written request for an informal hearing to show cause why impoundment fees are not owing or should not be paid prior to the vehicle's reclamation must be made within ten (10) days of receipt of such notice by mailing said request addressed as follows:

Chief of Police
P. O. Box 387
Manor, Texas 78653

(10) State that the failure to exercise the

right to reclaim the vehicle within the time provided constitutes, on the part of the addressee of such notice:

(A) a waiver of all right, title, and interest in the vehicle; and

(B) consent to the sale of the vehicle at a public auction.

Section 4.4 Published Notice.

(a) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice requirements as to those persons who cannot be determined with reasonable certainty shall:

(1) Be by publication one (1) time in a newspaper of general circulation in the area where the vehicle was abandoned, not later than the tenth (10th) day after the vehicle was taken into custody;

(2) Contain the same information as is required for a notice given by certified mail in Section 4.3, above; and

(b) Published notice may contain multiple listings of abandoned vehicles.

Section 4.5 Hearing.

(a) Should an addressee of a notice under Section 4.3, above, request a hearing pursuant to Section 4.3 (9), above, the Chief of Police, or his designate, shall conduct a hearing to determine whether such addressee should in fact pay all the fees assessed against the impounded vehicle or be allowed to reclaim the impounded vehicle prior to full payment of the assessed fees.

(b) Written notice of the place, date, and time of such hearing shall be given to the person requesting such hearing, and he shall be given the opportunity to present such evidence as may be pertinent to the hearing.

(c) If the hearing officer determines that the vehicle was properly impounded, the fees charged herein shall be imposed prior to the release of the vehicle.

Section 4.6 Sale Authorization. Failure to reclaim an impounded vehicle not later than the twentieth (20th) day after the date of the written notice or the date of

publication of the published notice constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and constitutes consent to the sale of the impounded vehicle at public auction.

Section 4.7 Notice of Sale.

(a) Before the sale of an impounded vehicle, notice of the public auction shall be given by:

(1) Posting at the Travis County Courthouse door and at the Municipal Building;

(2) Publication in the City's official newspaper once a week for two (2) consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the date of the auction;

(b) The notice of sale required by Section 4.7 (a), above, shall include the following:

(1) Description of the year, make, model, vehicle identification number, and license number of the impounded vehicle;

(2) Identification of the property as being unredeemed;

(3) Statement that the property will be sold;

(4) Designation of the place and manner of the sale;

(5) Statement of the time and date of sale, which shall not be less than fourteen (14) days from the date of the first (1st) posting of notice; and

(c) Such notice shall also be sent by certified mail, return receipt requested, with a five (5) day return request, to the owner and all lien holders of the impounded vehicle.

Section 4.8 Sale.

(a) When any impounded vehicle is not redeemed by the date and time designated in the notice of sale, the Police Department shall proceed to sell such property at a public auction.

(b) The purchaser of a vehicle sold at auction:

(1) Takes title to the vehicle free and clear of all liens and claims of ownership;

(2) Shall be given a sales receipt from the Police Department; and

(3) Shall receive a certificate of title to the vehicle.

PART 5: Junked Vehicles.

Section 5.1 Observation of Junked Vehicle. Any police officer may enter private property for the purposes of examining a vehicle or vehicle part, obtaining information as to the identity of a vehicle, and removal, or causing the removal, of a vehicle or vehicle part.

Section 5.2 Notice.

(a) Upon the observation of a junked vehicle, a police officer shall cause notice to be given to the person or persons designated herein, below. Such notice shall:

(1) Be made by certified mail, return receipt requested with a five (5) day return request;

(2) State that such person is maintaining a public nuisance;

(3) Identify the location of the junked vehicle;

(4) Describe the year, make, model, vehicle identification number, and license number of the junked vehicle insofar as possible;

(5) Order that the junked vehicle must be removed and abated within ten (10) days of receipt of such notice;

(6) Advise that a written request for hearing must be made within ten (10) days of receipt of such notice by mailing said request addressed as follows:

City Secretary
P. O. Box 387
Manor, Texas 78653

(b) If such nuisance be on:

(1) private property, the notice shall be given to the last known registered owner of the vehicle, all lien holders of record, and the owner or occupant of the premises where such public nuisance exists; or

(2) public property, the notice shall be given to the last known registered owner of the vehicle, all

lien holders of record, and the owner or occupant of the public premises or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists.

(c) If any notice is returned undelivered by the United States Postal Service, official action to abate said nuisance shall be continued to a date not less than ten (10) days from the date of such return.

Section 5.3 Public Hearing. Should an addressee of a notice under Section 5.2, above, request a hearing pursuant to Section 5.2 (a) (6), above, the City Council shall conduct a hearing to determine whether the subject alleged junked vehicle is in fact a public nuisance. Due notice of the place, date, and time of such notice shall be given to the person requesting such hearing, and he shall be given the opportunity to present such evidence as may be pertinent to the hearing.

Section 5.4 Order.

(a) Should the City Council, after conducting the hearing above described, find that:

(1) There does in fact exist a junked vehicle which constitutes a public nuisance, it shall adopt an Order requiring the removal of said vehicle in accordance with the procedure set out in Subsection (c), below.

(2) Such does not constitute a public nuisance as herein defined, then such shall be allowed to remain without further official action by the City.

(b) If no hearing is requested within ten (10) days of receipt of said notice as provided in Section 5.2 (a) (6), above, the Chief of Police shall issue an Order requiring the removal of said vehicle.

(c) An Order from either the City Council or the Chief of Police requiring the removal of a junked vehicle or vehicle part shall include the year, make, model, vehicle identification number, and license number of the vehicle, if the information is available at the site, and the location of the vehicle.

Section 5.5 Disposition of Vehicles.

(a) Upon hearing and finding of existence of a public nuisance, such junked vehicle, or parts thereof, shall be removed to the vehicle depository prior to being

transported to the demolishers for processing as salvage. Payment shall be made to the City for the value of such salvage.

(b) The City may enter into a contract with a commercial enterprise capable of picking up and disposing of junked vehicles and may authorize said enterprise to pick up and dispose of vehicles, or parts thereof, found to be public nuisances.

(c) The Chief of Police shall cause notice to be given to the State Department of Highways and Public Transportation within five (5) days after the date of removal, identifying the year, make, model, vehicle identification number, and license number of the vehicle in order that said Department may cancel the certificate of title of said vehicle.

Section 5.6 Exception. Nothing herein shall be applicable to:

(a) A vehicle or part thereof which is:

(1) 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) stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junk yard.

(b) An unlicensed, operable, or inoperable antique or special interest vehicle stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from the ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

PART 6: Penalty.

Section 6.1 Violation. It shall be deemed a violation of this ordinance to:

(1) maintain a public nuisance as herein described; or

(2) knowingly or intentionally interfere with or attempt to prevent the physical impounding of a vehicle by the Police Department or its designate; or

(3) do any act which otherwise is proscribed by this ordinance.

Section 6.2 Fine.

(a) Any person found to be violating the provisions set out in Section 6.1, above, shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed TWO HUNDRED (\$200.00) DOLLARS. Each day of such violation shall constitute a separate offense.

(b) The penalty herein provided for:

(1) shall be cumulative and not exclusive of any other rights or remedies the City may have; and

(2) may be imposed notwithstanding provisions for the impoundment of vehicles under this ordinance and whether or not any of the procedures provided for herein are initiated or carried out.

PART 7: Closing Provisions.

Section 7.1 Severability. If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

Section 7.2 Repeal. That Ordinance No. 37 of the City of Manor, Texas, is hereby rescinded, repealed, and nullified immediately upon the date that this ordinance takes effect.

Section 7.3 Effective Date. This Ordinance shall become effective immediately upon its adoption.

Section 7.4 Publication. The descriptive caption of this ordinance is hereby ordered to be published in the official newspaper of the City of Manor for ten (10) consecutive days.

PASSED by the City Council of the City of Manor at a meeting on the 12th day of March, 1986, at which a quorum was present and for which due notice was given pursuant to Tex.Rev.Civ.Stat.Ann. art. 6252-17 (1970, Supp. 1986).

ATTEST:

Kathryn G. Burrell
KATHRYN G. BURRELL, Acting City Secretary

APPROVED this 12 day
of March, 1986.
Doug Parker
DOUG PARKER, Mayor