

Chapter 18

NUISANCES*

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ARTICLE I. IN GENERAL

Sec. 18-1. Definition.

For the purposes of this article, the words "nuisance" is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others; or
- (2) Offends decency; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

State law reference—Power of city to define nuisances, Vernon's Ann. Civ. St. art. 1175(19), (35).

Sec. 18-2. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the

***Cross references**—Animals, Ch. 4; noise, § 19-4.

following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

Sec. 18-3. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

State law reference—Power of city to prohibit nuisance within city and out of city limits for a distance of five thousand (5,000) feet, Vernon's Ann. Civ. St. art 1175(19).

Sec. 18-4. Notice to abate.

Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, the city health officer shall give five (5) days written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

Sec. 18-5. Contents of notice.

The notice to abate a nuisance issued under the provisions of this article shall contain:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (2) The location of the nuisance, if the same is stationary.
- (3) A description of what constitutes the nuisance.
- (4) A statement of acts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city will abate such nuisance and assess the cost thereof against such person.

Sec. 18-6. Service of notice.

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

Sec. 18-7. Abatement by city.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to

abate the same, the city health officer shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

State law reference—Power of city to abate nuisances, Vernon's Ann. Civ. St. art. 1175(34).

Sec. 18-8. City's costs declared lien.

Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

Sec. 18-9. Article supplemental.

The provisions of this article shall be supplemental to all other ordinances of the city.

Secs. 18-10—18-24. Reserved.

ARTICLE II. WEEDS, STAGNANT WATER, ETC.

Sec. 18-25. Definitions.

Whenever in this article the following terms are used, they shall have the following meanings:

"Agricultural purpose" shall mean any tract of land that is used primarily for the growing of crops and the grazing of livestock but does not include any retail sales on the premise.

"Parkway" shall mean the property located between the property line and the edge of the pavement of a public thoroughfare.

"Underbrush" shall mean any tree, bush, or shrubbery that is either native or introduced to the area, but excluding any brush that has a central trunk with a diameter of six (6) inches or more measured twenty-four (24) inches from the ground.

(Ord. No. 2003-4, § 2, 2-13-03)

Editor's note—Ord. No. 2003-4, § 2, adopted Feb. 13, 2003, did not expressly amend this Code; hence, inclusion of its provisions as § 18-25 herein was at the editor's discretion.

Sec. 18-26. Prohibited.

All persons who own, occupy or possess any real property and premises shall keep the premises mowed, and shall keep such property reasonably free of noxious weeds, tall grasses and underbrush. No grass can exceed twelve (12) inches in height and underbrush cannot exceed eighteen (18) inches in height. Trees must be trimmed so that the canopy is no closer than seven (7) feet to the natural ground, and no closer than twelve (12) feet above the top of the curb or edge of pavement. It shall be unlawful for the owner or occupant of any real estate or improvements thereon situated to permit stagnant water to remain upon said property or to permit any condition thereon as may be liable to produce disease or to permit any filth, carrion or other impure or unwholesome matter of any kind to accumulate, collect or remain in any house, building, establishment, lot, yard, parkway, or ground within this city or to permit any other objectionable unsightly or unsanitary matter of whatever nature to grow, collect, accumulate or to remain on any lot or parkway in the city except as provided by sections 18-30 and 18-31.

(Ord. No. 74-10, §§ 1, 2, 6-25-74; Ord. No. 2003-4, § 3, 2-13-03)

Sec. 18-27. State law adopted.

The city hereby adopts Article 4436 of Vernon's Annotated Texas Statutes as such article presently exists and as same may be hereafter amended for all purposes as fully as though such article was set out in full.

(Ord. No. 74-10, § 3, 6-25-74)

Sec. 18-28. Abatement by city.

In order to correct and eliminate any unsanitary, unhealthy or unsafe condition which may be found or thought to exist upon any

property or premises within this city, the city, its agents, employees and servants, be, and they are hereby authorized and directed to go in and upon said property for the purpose of inspecting, correcting or eliminating any such condition found to exist with or without notice to the owner or occupant of said premises without in any manner being deemed guilty of any trespass whatever and upon compliance with V.A.T.S. Article 4436 to impress a lien upon said property and premises for any work performed thereon. Any notices required to be given under and pursuant to the terms of said article may be given by the city manager or any other person designated by him.

(Ord. No. 74-10, § 4, 6-25-74)

Sec. 18-29. Violations.

In the event that any owner or occupant of any property or premises should violate any of the provisions of this article, such person shall be deemed guilty of a misdemeanor. Each day that such violation is permitted to continue to exist after due notice same shall be deemed to constitute a separate offense.

(Ord. No. 74-10, § 5, 6-25-74)

Sec. 18-30. Exempt property.

Property is exempt from the provisions of this article if (i) the lot is greater than five (5) acres or the sum of the contiguously owned lots are greater than five (5) acres or (ii) if the property is used for agricultural purposes (crop products or livestock grazing) or (iii) the grass is being cultivated for agricultural purposes, provided that in (ii) and (iii) an agriculture property tax exemption exists for the property.

(Ord. No. 2003-4, § 4, 2-13-03)

Sec. 18-31. Additional criteria for exempt property.

In addition to the requirements necessary for exempt property setout in section 18-30, the owners of any exempt lot or property must maintain a strip of land at least ten (10) feet wide in compliance with section 18-26 from any property line adjacent to

any property developed with single family dwellings; and a minimum of twenty-five (25) feet from the edge of any street or payment of a public thoroughfare.
(Ord. No. 2003-4, § 5, 2-13-03)

Secs. 18-32—18-45. Reserved.

ARTICLE III. ABANDONED AND JUNKED MOTOR VEHICLES*

DIVISION 1. JUNKED VEHICLES

Sec. 18-46. Short title.

This article may be cited as the "junked vehicle ordinance".
(Ord. No. 99-34, § 1, 12-16-99; Ord. No. 2002-12, § 1.0, 5-9-02)

Sec. 18-47. Definitions.

The following terms whenever used or referred to in this article shall have the same respective meaning unless a different meaning clearly appears for the context:

- (1) "City" shall mean the City of Taylor, Texas.
- (2) "Police department" shall mean the police department of the city.
- (3) "Administrator" shall mean a regularly salaried, full-time employee of the city, designated by the city manager or his designee as the individual tasked with the enforcement of this article.
- (4) "Demolisher" means any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles.

***Editor's note**—Former Article III, § 18-46, has been replaced by Ord. No. 99-34, §§ 1—15, adopted December 16, 1999, and Ord. No. 99-37, §§ 2—13, adopted November 23, 1999. Former Article III, § 18-46, pertained to similar subject matter and derived from Ord. No. 03-02-94, §§ 1—4, 2-22-94.

Cross reference—Unclaimed property in custody of police, § 23-17 et seq.

- (5) "Junked vehicle" means any motor vehicle as defined in Vernon's Texas Code Annotated, Transportation Code, Section 683.071 and as amended, which vehicle is self-propelled and:
- a. Does not have lawfully attached to it:
 - (i) An unexpired license plate; or
 - (ii) A valid motor vehicle inspection certificate; and

- b. Is wrecked, dismantled or partially dismantled, or discarded; or
- c. Is inoperable and has remained inoperable for more than:
 - (i) Seventy-two (72) consecutive hours, if the vehicle is on public property; or
 - (ii) Thirty (30) consecutive days, if the vehicle is on private property.

The definition of "junked vehicle" as written in this article is intended to be and remain the same as the definition written in Vernon's Texas Code Annotated, Texas Transportation Code, Section 683.071. An amendment to the definition of "junked vehicle" in the Texas Transportation Code, Section 683.071 as now written or as hereafter changed shall become the definition of "junked vehicle" in this article upon the effective date of the definition change made in the Texas Transportation Code. (Ord. No. 99-34, § 2, 12-16-99; Ord. No. 2002-12, § 2.0, 5-9-02)

Sec. 18-48. Junked vehicles declared a public nuisance.

Junked vehicles which are located in any place where they are visible from a public place or public right-of-way, are detrimental to the safety and welfare of the general public, do tend to reduce the value of private property, do invite vandalism, do create fire hazards, do constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the state, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the State of Texas, and such vehicles are, therefore, declared to be a public nuisance. (Ord. No. 99-34, § 3, 12-16-99; Ord. No. 2002-12, § 3.0, 5-9-02)

Sec. 18-49. Making it unlawful to create or to maintain such nuisance.

It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided), within the city, any junked vehicle or parts or portion thereof. (Ord. No. 99-34, § 4, 12-16-99; Ord. No. 2002-12, § 4.0, 5-9-02)

Sec. 18-50. Notice by chief of police.

(a) Upon determination by the administrator of this article, that a nuisance, as defined herein, exists in the city, the administrator shall give or cause to be given to the person maintaining or suspected of maintaining such nuisance, in writing, a ten (10) day notice, stating the nature of the public nuisance and that it must be removed and abated within ten (10) days; and further that a request for a hearing must be made before the expiration of said ten (10) day period, such notice to be mailed, by certified or registered mail, with a five (5) day return requested to:

- (1) The last known registered owner of the nuisance;
- (2) Each lienholder of record of the nuisance; and
- (3) The owner or occupant of:
 - a. The property on which the nuisance is located; or
 - b. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) The notice must state that:

- (1) The nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was mailed; and
- (2) Any request for a hearing must be made before that ten (10) day period expires.

(c) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.

(d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11th) day after the date of the return.

(e) A public hearing shall be held prior to the removal of the vehicle or the part thereof as a public nuisance, the same should be held before the municipal judge of the city, when such hearing is requested by the owner or occupant of the premises on which said vehicle is located, within ten (10) days after service of notice to abate the nuisance. Should the owner or occupant of the premises on which said vehicle is located fail to request a hearing,

a public hearing shall be conducted in absentia before the municipal court judge who shall determine if the vehicle or vehicle parts is a nuisance.

At a hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicles:

- (1) Description;
- (2) Vehicle identification number; and
- (3) License plate number.

(Ord. No. 99-34, § 5, 12-16-99; Ord. No. 2002-12, § 5.0, 5-9-02)

Sec. 18-51. Order by municipal judge.

After the hearing is held by the judge of the municipal court of the city as herein provided, if said municipal judge finds that such a nuisance as herein defined exists, he shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within ten (10) days after said order is given to such owner or occupant of the premises on which said vehicle is located.

If the owner or occupant of the premises on which said vehicle is located fails to attend the public hearing where the order is issued, a police officer shall deliver or cause to be delivered said order to the last known address of the owner or occupant of the premises on which said vehicle is located.

It shall be unlawful and a violation of this article for any such person to whom such order is given to fail or refuse to comply therewith to remove such junked vehicle within the time provided by said order.

(Ord. No. 99-34, § 6, 12-16-99; Ord. No. 2002-12, § 6.0, 5-9-02)

Sec. 18-52. Duty of owner or occupant of the premises.

In the event the owner or occupant of the premises does not request a hearing, as hereinabove provided, it shall be his duty to

comply with the provisions of the notice given him and to abate such nuisance within ten (10) days after the date of the receipt of such notice.

(Ord. No. 99-34, § 7, 12-16-99; Ord. No. 2002-12, § 7.0, 5-9-02)

Sec. 18-53. Vehicles not to be made operable.

After a vehicle has been removed in accordance with or under the terms and provisions of this article, it shall not be reconstructed or made operable.

(Ord. No. 99-34, § 8, 12-16-99; Ord. No. 2002-12, § 8.0, 5-9-02)

Sec. 18-54. Notice to Texas Highway Department.

Notice shall be given to the Texas Highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.

(Ord. No. 99-34, § 9, 12-16-99; Ord. No. 2002-12, § 9.0, 5-9-02)

Sec. 18-55. Relocation.

The relocation of a junked vehicle that is a public nuisance to another location in the city, after a proceeding for the abatement and removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(Ord. No. 99-34, § 10, 12-16-99; Ord. No. 2002-12, § 10.0, 5-9-02)

Sec. 18-56. Where article does not apply.

This article shall not apply to a vehicle or vehicle part:

- (1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junk yard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - a. Maintained in an orderly manner;

- b. Not a health hazard; and
- c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

As used in this article:

- (1) "Antique vehicle" means a passenger car or truck that is at least 25 years old.
 - (2) "Motor vehicle collector" means a person who:
 - a. Owns one or more antique or special vehicles; and
 - b. Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.
 - (3) "Special interest vehicle" means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.
- (Ord. No. 99-34, § 11, 12-16-99; Ord. No. 2002-12, § 11.0, 5-9-02)

Sec. 18-57. Administration of this division.

The administration of this article shall be by regularly salaried, full-time employees of the city, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person.

(Ord. No. 99-34, § 12, 12-16-99; Ord. No. 2002-12, § 12.0, 5-9-02)

Sec. 18-58. Removal of vehicle.

Within ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the last known owner or occupant of the premises on which said vehicle is located, the administrator of this article or members of the police department of the city, acting under the direction of the chief of

police, may, if said nuisance has not been abated, petition the municipal court judge for an order to remove or cause to be removed the vehicle which was the subject of such notice to a scrap yard, a motor vehicle demolisher, or a suitable site operated by the city. The person authorized to administer the procedures may only remove or cause to be removed vehicles after an order is received from the municipal court judge. A person authorized to administer the procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance and to remove or direct the removal of the nuisance.

(Ord. No. 99-34, § 13, 12-16-99; Ord. No. 2002-12, § 13.0, 5-9-02)

Sec. 18-59. Sale or disposal of vehicles.

Any junked vehicle that has been removed may be disposed of by sale to a demolisher for the highest bid or offer received therefor or be processed as scrap or salvage by demolisher or be demolished.

(Ord. No. 99-34, § 14, 12-16-99; Ord. No. 2002-12, § 14.0, 5-9-02)

Sec. 18-60. Penalty.

Any person who shall violate the terms and provisions of this article shall, upon conviction thereof, be punished by a fine of not less than one dollar (\$1.00) and not more than two hundred dollars (\$200.00) and each and every day this article is violated shall constitute a separate offense. The court hearing a case under this article shall order abatement and removal of the nuisance on conviction.

(Ord. No. 99-34, § 15, 12-16-99; Ord. No. 2002-12, § 15.0, 5-9-02)

DIVISION 2. ABANDONED VEHICLES

Sec. 18-61. Short title.

This article may be cited as the "abandoned vehicle ordinance".
(Ord. No. 99-37, § 2, 11-23-99)

Sec. 18-62. Definitions.

For the purpose of this article only, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned motor vehicle means a motor vehicle which:

- (1) Is inoperable, is more than five (5) years old, and has been left unattended on public property for more than forty-eight (48) hours;
- (2) Has remained illegally on public property for more than forty-eight (48) hours;
- (3) Has remained on private property without the consent of the owner or person in charge of the property for more than forty-eight (48) hours;
- (4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than forty-eight (48) hours;

- (5) Has been left unattended for more than twenty-four (24) hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority or a controlled access highway.

Controlled access highway has the meaning assigned by Section 541.302, Texas Transportation Code, as amended.

Department means the Texas Department of Transportation.

Garagekeeper means an owner or operator of a storage facility.

Motor vehicle means a vehicle that is subject to registration under Chapter 501, Texas Transportation Code, as amended.

Motor vehicle demolisher means a person in the business of:

- (1) Converting motor vehicles into processed scrap or scrap metal; or
- (2) Wrecking or dismantling motor vehicles.

Outboard motor means an outboard motor subject to registration under Chapter 31, Texas Parks and Wildlife Code, as amended.

Storage facility includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

Watercraft means a vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code, as amended.

(Ord. No. 99-37, § 3, 11-23-99)

Sec. 18-63. Authority to take abandoned motor vehicle into custody.

(a) The police department may take into custody an abandoned motor vehicle, watercraft, or outboard motor found on public or private property.

(b) The police department may use department personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, and store in abandoned motor vehicle, watercraft, or outboard motor taken into custody by the police department under this article.

(Ord. No. 99-37, § 4, 11-23-99)

Sec. 18-64. Taking abandoned motor vehicle into custody; notice.

(a) The police department shall send notice of abandonment to:

- (1) The last known registered owner of each motor vehicle, watercraft, or outboard motor taken into custody by the agency or for which a report is received under section 18-69; and
- (2) Each lienholder recorded under Chapter 501, Texas Transportation Code, as amended, for the motor vehicle or under Chapter 31, Texas Parks and Wildlife Code, for the watercraft or outboard motor.

(b) The notice under subsection (a) must:

- (1) Be sent by certified mail not later than the tenth (10th) day after the date the agency:
 - a. Takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or
 - b. Receives the report under section 18-69.
- (2) Specify the year, make, model and identification number of the item;
- (3) Give the location of the facility where the item is being held;
- (4) Inform the owner and lienholder of the right to claim the item not later than the twentieth (20th) day after the date of the notice on payment of:
 - a. Towing, preservation and storage charges; or
 - b. Garagekeeper's charges and fees under section 18-69.
- (5) State that failure of the owner or lienholder to claim the item during the period specified by subsection (b)(4) is:
 - a. A waiver by that person of all right, title and interest in the item; and
 - b. Consent to the sale of the item at a public auction.

(c) Notice by publication in one (1) newspaper of general circulation in the area where the motor vehicle, watercraft, or outboard motor was abandoned is sufficient notice under this article if:

- (1) The identity of the last registered owner cannot be determined;
- (2) The registration has no address for the owner; or
- (3) The determination with reasonable certainty of the identity and address of all lienholders is impossible.

(d) Notice by publication.

(1) Must be published in the same period that is required by subsection (b) for notice by certified mail and contain all of the information required by that subsection; and

(2) May contain a list of more than one (1) abandoned motor vehicle, watercraft, or outboard motor.

(Ord. No. 99-37, § 5, 11-23-99)

Sec. 18-65. Storage fees.

The police department or the agent of the police department that takes into custody an abandoned motor vehicle, watercraft, or outboard motor is entitled to reasonable storage fees:

- (1) For not more than ten (10) days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and
- (2) Beginning on the day after the day the police department or its agent mails notice and ending on the day accrued charges are paid and the vehicle, watercraft, or outboard motor is removed.

(Ord. No. 99-37, § 6, 11-23-99)

Sec. 18-66. Auction or use of abandoned items; waiver of rights.

(a) If an abandoned motor vehicle, watercraft or outboard motor is not claimed under section 18-64:

- (1) The owner or lienholder:
 - a. Waives all rights and interest in the item; and

- b. Consents to the sale of the item by public auction;
and
 - (2) The police department may sell the item at a public auction or use the item as provided by section 18-68.
- (b) Proper notice of the auction shall be given. A garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.
- (c) The purchaser of a motor vehicle, watercraft, or outboard motor:
- (1) Takes title free and clear of all liens and claims of ownership;
 - (2) Shall receive a sales receipt from the police department;
and
 - (3) Is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title.
- (Ord. No. 99-37, § 7, 11-23-99)

Sec. 18-67. Auction proceeds.

- (a) The police department is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for:
- (1) The cost of the auction;
 - (2) Towing, preservation, and storage fees resulting from the taking into custody; and
 - (3) The cost of notice or publication as required by section 18-64.
- (b) After deducting the reimbursement allowed under subsection (a), the proceeds of the sale shall be held for ninety (90) days for the owner or lienholder of the vehicle.
- (c) After the period provided by subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting

from taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

(d) The city may transfer funds in excess of one thousand dollars (\$1,000.00) from the account to the general revenue account to be used by the police department.
(Ord. No. 99-37, § 8, 11-23-99)

Sec. 18-68. Police department use of certain abandoned motor vehicles.

(a) The police department that takes an abandoned motor vehicle into custody that is not claimed under section 18-64 may use the vehicle for department purposes.

(b) The police department shall auction the vehicle as provided by this article if the police department discontinues use of the vehicle.

(c) This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.
(Ord. No. 99-37, § 9, 11-23-99)

Sec. 18-69. Garagekeepers' duty; abandoned motor vehicles.

(a) A motor vehicle is abandoned if the vehicle is left in a storage facility operated for commercial purposes after the tenth (10th) day after the date on which:

- (1) The garagekeeper gives notice by registered or certified mail, return receipt requested, to the last known registered owner of the vehicle and to each lienholder of record of the vehicle under Chapter 501, Texas Transportation Code, as amended, to remove the vehicle;
- (2) A contract for the vehicle to remain on the premises of the facility expires; or
- (3) The vehicle was left in the facility, if the vehicle was left by a person other than the registered owner or a person authorized to have possession of the vehicle under a contract of use, service, storage, or repair.

(b) If notice sent under subsection (a)(1) is returned unclaimed by the post office, substituted service is sufficient if published in one (1) newspaper of general circulation in the area where the vehicle was left.

(c) The garagekeeper shall report the abandonment of the motor vehicle to the police department and shall pay a five dollar (\$5.00) fee to be used by the police department for the cost of the notice required by this article or other cost incurred in disposing of the vehicle. A fee paid to the department of public safety shall be used to administer this article.

(d) The garagekeeper shall retain custody of an abandoned motor vehicle until the police department takes the vehicle into custody under section 18-72.
(Ord. No. 99-37, § 10, 11-23-99)

Sec. 18-70. Garagekeepers' fees and charges.

(a) A garagekeeper who acquires custody of a motor vehicle for a purpose other than repair is entitled to towing, preservation, and notification charges and reasonable storage fees, in addition to storage fees earned under a contract, for each day:

- (1) Not to exceed five (5) days, until the notice described by section 18-69(a) is mailed; and
- (2) After notice is mailed, until the vehicle is removed and all accrued charges are paid.

(b) A garagekeeper who fails to report an abandoned motor vehicle to a law enforcement agency within seven (7) days after the date it is abandoned may not claim reimbursement for storage of the vehicle.

(c) This article does not impair any lien that a garagekeeper has on a vehicle except for the termination or limitation of claim for storage for the failure to report the vehicle to the law enforcement agency.
(Ord. No. 99-37, § 11, 11-23-99)

Sec. 18-71. Unauthorized storage fee; offense.

(a) A person commits an offense if the person charges a storage fee for a period for which the fee is not authorized by section 18-64.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, except however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision of law that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, the penalty shall be a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day said violation is continued shall constitute a separate offense.

(Ord. No. 99-37, § 12, 11-23-99)

Sec. 18-72. Disposal of vehicle abandoned in storage facility.

(a) The police department shall take into custody an abandoned vehicle left in storage facility that has not been claimed in the period provided by the notice under section 18-64.

(b) The police department may use the vehicle or sell the vehicle at auction as provided by section 18-66. If a vehicle is sold, the proceeds of the sale shall first be applied to a garagekeeper's charges for service, storage, and repair of the vehicle.

(c) As compensation for expenses incurred in taking the vehicle into custody and selling it, the police department shall retain:

- (1) Two (2) per cent of the gross proceeds of the sale of the vehicle; or
- (2) All the proceeds if the gross proceeds of the sale are less than ten dollars (\$10.00).

(d) Surplus proceeds shall be distributed as provided by section 18-67.

(e) If the police department does not take the vehicle into custody before the thirty-first (31st) day after the date notice is sent under section 18-64:

- (1) The police department may not take the vehicle into custody; and
- (2) The storage facility may dispose of the vehicle under Chapter 70, Texas Property Code, except that notice under section 18-64 satisfies the notice requirement of that chapter.

(Ord. No. 99-37, § 13, 11-23-99)