

ORDINANCE NO. 995

AN ORDINANCE REGULATING AND PROVIDING FOR THE REMOVAL AND DISPOSITION OF ABANDONED AND JUNKED VEHICLES AND MOTOR VEHICLES; PROVIDING A SHORT TITLE; DEFINING CERTAIN TERMS; GRANTING AUTHORITY TO TAKE CERTAIN ABANDONED VEHICLES AND MOTOR VEHICLES INTO CUSTODY; PROVIDING FOR CERTAIN NOTICES TO REGISTERED OR RECORDED OWNERS, LIEN HOLDERS AND PROPERTY OWNERS OF VEHICLES DEEMED ABANDONED AND FOR THE CONTENTS OF SUCH NOTICES; ESTABLISHING RIGHTS OF OWNERS OR LIEN HOLDERS TO RECLAIM VEHICLES DEEMED ABANDONED; REQUIRING THE PUBLIC AUCTION OF ABANDONED VEHICLES; PROVIDING FOR THE DISTRIBUTION OF THE PROCEEDS FROM THE SALE OF ABANDONED MOTOR VEHICLES; PROVIDING FOR THE DEMOLITION AND DISPOSAL OF CERTAIN VEHICLES; PROVIDING FOR POLICE DEPARTMENT USE OF CERTAIN ABANDONED MOTOR VEHICLES; PROVIDING FOR REGULATION OF GARAGEKEEPERS AND ABANDONED MOTOR VEHICLES AND PROVIDING A FINE OF NOT LESS THAN \$200.00 NOR MORE THAN \$1000.00 FOR VIOLATION OF SECTION 7; DECLARING JUNKED VEHICLES AS PUBLIC NUISANCES; MAKING IT UNLAWFUL TO CREATE OR MAINTAIN A PUBLIC NUISANCE; PROVIDING FOR CERTAIN NOTICES TO REGISTERED OR RECORD OWNERS, LIEN HOLDERS AND PROPERTY OWNERS OF JUNKED VEHICLES AND FOR THE CONTENTS OF SUCH NOTICES; PROVIDING FOR REQUESTED PUBLIC HEARINGS; PROVIDING FOR REMOVAL OF JUNKED VEHICLES; PROHIBITING THE RECONSTRUCTION OF OR MAKING OPERABLE A REMOVED JUNKED MOTOR VEHICLE; PROVIDING FOR NOTICE TO TEXAS DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION OF THE REMOVAL OF JUNKED MOTOR VEHICLES; PROVIDING FOR ADMINISTRATION HEREOF; PROVIDING FOR EXCEPTIONS TO THIS ORDINANCE; PROVIDING FOR SALE OR DISPOSAL OF JUNKED VEHICLES; AUTHORIZING OFFICIALS TO GO ON PRIVATE PROPERTY FOR INSPECTION OR REMOVAL OF JUNKED VEHICLES; PROHIBITING THE VIOLATION OF ANY OF THE PROVISIONS HEREOF; PROVIDING THAT A VIOLATION OF THE PROVISIONS HEREOF SHALL CONSTITUTE A MISDEMEANOR AND BE PUNISHABLE BY FINE NOT TO EXCEED \$200.00 FOR EACH OFFENSE UPON CONVICTION THEREOF IN MUNICIPAL COURT; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article 4477-9a V.T.C.S provides in Article V for the regulation and disposal of abandoned vehicles and motor vehicles and junked vehicles and motor vehicles by cities; and,

WHEREAS, the City of Raymondville, Texas, desires to regulate and dispose of abandoned vehicles and motor vehicles and junked vehicles and motor vehicles finding them to be a public nuisance. NOW THEREFORE,

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF RAYMONDVILLE, TEXAS:

That the following provisions are here enacted to be and become effective as an ordinance of the City of Raymondville, upon final passage hereof and publication of the caption hereof as required by law:

Section 1. Short Title

This Ordinance shall be cited as the "Raymondville Abandoned and Junked Motor Vehicle Ordinance."

Section 2. Definitions

The following terms whenever used or referred to in this Ordinance shall have the following respective meanings unless a different meaning is indicated by the context:

- (1) "City" shall mean the City of Raymondville, Texas.
- (2) "Police Department" shall mean the police department of the City of Raymondville.
- (3) "Abandoned motor vehicle" shall mean a motor vehicle that is inoperable and more than five (5) years old and left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within the limits of the City for more than 48 hours.
- (4) "Demolisher" shall mean a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.
- (5) "Garagekeeper" shall mean an owner or operator of a parking place or establishment, motor vehicle storage

- facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.
- (6) "Junked vehicle" shall mean a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 670d-11, Vernon's Texas Civil Statutes.): (A) that is inoperative; and (B) that 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 45 days.
- (7) "Storage facility" shall mean a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.
- (8) "Motor vehicle" shall mean a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), except that for purposes of Sections 3, 4, and 5 of this Ordinance, "motor vehicle" includes a motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code.
- (9) "Antique auto" shall mean a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least 35 years old.
- (10) "Special interest vehicle" shall mean a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- (11) "Collector" shall mean the owner of one 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.

Section 3. Authority to take possession of abandoned motor vehicles.

The Police Department may take into custody any abandoned motor vehicles found on public or private property. In connection with this authority, the Police Department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing abandoned motor vehicles.

Section 4. Notification of owner and lien holder.

(a) When the Police Department takes into custody an abandoned motor vehicle, it shall notify not later than the 10th day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record pursuant to the Certificate of Title Act (Article 6687-1, V.T.C.S.), or Chapter 31, Parks and Wildlife Code, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under Section 7 of this Ordinance. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the motor vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) 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 shall be given by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle are the same as set forth in the valid notice given under this section.

(d) The Police Department or an agent of the Police Department that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for:

- (1) a period of not more than 10 days beginning on the day the Police Department takes custody and continuing through the day the department mails notice as provided by this section; and,
- (2) a period beginning on the day after the day the Police Department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

Section 5. Police Department use of certain abandoned motor vehicles.

(a) If an abandoned motor vehicle has not been reclaimed as provided in Section 4 of this Ordinance, the Police Department may use that abandoned vehicle for police department purposes as provided by this section.

(b) The Police Department may use the abandoned motor vehicle for police department purposes as long as the Department considers it cost-effective. If the Police Department

discontinues use of the abandoned motor vehicle, the Department shall auction the vehicle as provided in Section 6 of this Ordinance.

(c) This section does not apply to an abandoned motor vehicle with a garagekeeper's lien.

Section 6. Auction of abandoned motor vehicles.

If an abandoned motor vehicle has not been reclaimed as provided by Section 4 of this Ordinance, the Police Department may use the abandoned motor vehicle for police department purposes as provided by Section 5 of this Ordinance, or sell the vehicle at a public auction. Proper notice of the public auction shall be given, and in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the Police Department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the Police Department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under Section 4 of this Ordinance. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs. The City may transfer the amount in the special fund that exceeds \$1000.00 from the special fund to the City's general revenue account to be used by the Police

Department.

Section 7. Garagekeepers and abandoned motor vehicles.

(a) A motor vehicle left for more than 10 days in a storage facility operated for commercial purposes after notice is given by registered or certified mail, return receipt requested, to the owner and to any lien holder of record under the Certificate of Title Act (Article 6687-1 V.T.C.S) to pick up the vehicle, or for more than 10 days after a period when under a contract the vehicle was to remain on the premises of the storage facility, or a motor vehicle left for more than 10 days in a storage facility by someone other than the registered owner or by a person authorized to have possession of the motor vehicle under a contract of use, service, storage, or repair, is considered an abandoned vehicle, and shall be reported by the garagekeeper to the Police Department. If the notice to the owner or a lien holder is returned by the post office unclaimed, notice shall be given by one publication in one newspaper of general circulation in the area in which the vehicle was left in storage.

(b) If a garagekeeper or storage facility acquires possession of a motor vehicle for a purpose other than repair, the garagekeeper or storage facility is entitled to towing, preservation, and notification charges and to reasonable storage fees, in addition to storage fees earned pursuant to contract, for a maximum of five days only until notification is mailed to the last known registered owner and all lien holders of record as provided by Subsection (a) of this section. After such notice is mailed, storage fees may continue until the vehicle is removed and all accrued charges are paid. A garagekeeper who fails to report the possession of an abandoned vehicle to the Police Department within 48 hours after it becomes abandoned may no longer claim reimbursement for storage of the vehicle.

(c) The Police Department, upon receipt of a report from a garagekeeper of the possession of a vehicle considered abandoned

under the provisions of this Ordinance shall follow the notification procedures provided in Section 4 of this Ordinance, except that custody of the vehicle shall remain with the garagekeeper until after compliance with the notification requirements. A fee of \$5.00 shall accompany the report of the garagekeeper to the Police Department. The \$5.00 fee shall be retained by the Police Department and used to defray the cost of notification or other cost incurred in the disposition of an abandoned motor vehicle.

(d) An abandoned vehicle left in a storage facility and not reclaimed after notice is sent in the manner provided in Section 4 of this Ordinance shall be taken into custody by the Police Department and used for police department purposes as provided by Section 5 of this Ordinance or sold in the manner provided in Section 6 of this Ordinance. The proceeds of a sale under this section shall first be applied to the garagekeeper's charges for servicing, storage, and repair, but as compensation for the expenses incurred by the Police Department in placing the vehicle in custody and the expense of auction, the Police Department shall retain two percent of the gross proceeds of the sale of each vehicle auctioned, unless the gross proceeds are less than \$10.00. If the gross proceeds are less than \$10.00, the Police Department shall retain the \$10.00 to defray expenses of custody and auction.

(e) Except for the termination or limitation of claim for storage for failure to report an abandoned vehicle, nothing in this section may be construed to impair any lien of a garagekeeper under the laws of the State of Texas.

(f) A person charging fees under Subsection (b) of this section commits an offense in the person charges a storage fee for a period of time not authorized by Subsection (b). An offense under this subsection is punishable by a fine of not less than \$200.00 nor more than \$1000.00

Section 8. Junked vehicles declared as public nuisance.

Junked vehicles which are located anywhere in the City where it is visible from a public place or public right-of-way is 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, and is detrimental to the economic welfare of the City and the State of Texas as a whole by producing urban blight adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance and subject to abatement by the City.

Section 9. Making it unlawful to create or to maintain a public nuisance.

It shall be unlawful for any individual, firm, person, or corporation to leave or permit to remain upon public or private property, except as hereinafter provided, within the city limits of the City of Raymondville, Texas, any junked vehicle or parts or portions thereof, for any period of time in excess of ten (10) days.

Section 10. Notice to abate nuisance on private property.

Whenever it is brought to the attention of the Chief of Police of the City, that a public nuisance, as herein defined, is being maintained on private property, the Chief of Police, or his agent, shall send or cause to be sent to the last known registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists a notice stating the nature of the public nuisance and that it must be removed and abated within ten (10) days from the date of receipt of said notice and further advising that a request for a hearing must be made before expiration of the ten (10) day period.

The notice herein provided to be sent by the Chief of Police of the City, or his agent, shall be sent by certified mail with a five (5) day return requested. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or if the last known registered owner is physically located, the notice may be hand delivered. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

Section 11. Notice to abate nuisance on public property.

Whenever it is brought to the attention of the Chief of Police of the City, that a public nuisance, as herein defined, is being maintained on public property or on a public right-of-way, the Chief of Police, or his agent, shall send or cause to be sent to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists a notice stating the nature of the public nuisance and that it must be removed and abated within ten (10) days from the date of receipt of said notice and further advising that a request for a hearing must be made before expiration of the ten (10) day period.

The notice herein provided to be sent by the Chief of Police of the City, or his agent, shall be sent by certified mail with a five (5) day return requested. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known owner may be placed on the motor vehicle, or if the last known registered owner is physically located, the notice may be hand delivered. If the notice is returned undelivered by the United States Postal Service,

official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

Section 12. Hearing in Municipal Court; Order of Municipal Judge.

If timely requested by the owner or occupant of the private premises, the public premises, or the premises adjacent to the public right-of-way whereupon such public nuisance is alleged to be maintained, a hearing shall be held before the Municipal Judge of the City of Raymondville, Texas, prior to the removal of the vehicle or part thereof. At the hearing, it shall be presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. After such hearing, should the Municipal Judge determine that a public nuisance is being maintained upon the property in question, he shall enter an order requiring the removal of the vehicle or part thereof, which order shall include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

Section 13. Removal of Vehicle.

If no hearing is requested as provided above, it shall be the duty of the person notified to comply with the provisions of the notice given and to abate such nuisance within (10) days after the date of receipt of such notice. If a hearing is requested, as provided above, and an order of removal is entered by the Municipal Judge, it shall be the duty of the person requesting the hearing to comply with the order of removal and to remove and abate such nuisance within ten (10) days from the entry of such order.

If such nuisance is not abated within the time period allowed, the Chief of Police, or any person duly authorized by the Chief of Police and acting under his direction, may remove or cause to be removed, the vehicle or part thereof to the city storage area.

Section 14. Vehicles not to be made operable.

After the vehicle has been removed under the terms of this ordinance, it shall not be reconstructed or made operable.

Section 15. Notice to Texas Department of Highways and Public Transportation.

The Chief of Police, or his agent, shall give notice to the Texas Department of Highways and Public Transportation within five (5) days after the date of removal, identifying the vehicle or part thereof so removed for cancellation of the certificate of title to the vehicle pursuant to the certificate of Title Act (Article 6687-1, V.T.C.S.).

Section 16. Administration of Ordinance.

This Ordinance shall be administered by regularly salaried, full-time employees of the city, except that removal of vehicles or parts thereof may be by any other duly authorized person.

Section 17. Exceptions to this Ordinance.

The provisions of this Ordinance shall not apply:

- (1) to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property,
- (2) to a vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or
- (3) to an unlicensed operable or inoperable antique and special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Section 18. Sale or disposal of vehicle.

When any junked vehicle has been removed by the chief of

Police to the storage area of the City and has remained in such storage area for ten (10) days or more, it shall be the duty of the Chief of Police to dispose of the same by removal to a scrap yard or by sale to a demolisher for the highest bid or offer received, or to remove the same to any suitable site operated by the City for processing as scrap or salvage. Should the junked vehicle be sold to a demolisher or as salvage, the proceeds of such sale shall first be applied to the cost of removal and storage and the balance, if any, shall be paid to the person entitled thereto, either lienholder or owner.

Section 19. Authority to enforce.

The chief of Police, or his duly authorized agent, may enter upon private property for the purposes specified in this Ordinance and to examine the vehicle or parts thereof, obtain information as to the identity of vehicles or parts thereof, and to remove or cause to be removed a vehicle or parts thereof declared to be a nuisance. The Municipal Court of the City of Raymondville, Texas, shall have the power and authority to issue all orders necessary to enforce the procedures established by this Ordinance.

Section 20. Penal provisions.

It shall be unlawful and a violation of this Ordinance for any person, firm, or corporation directed to remove or abate a nuisance to fail or refuse to comply therewith or to fail to remove such junked vehicle within the time provided by such order.

Any person who shall violate the terms and provisions of this Ordinance, shall, upon conviction be punished by a fine of not more than \$200.00 (except as provided in Subsection (f) of section 7 of this Ordinance), and each and every day this Ordinance is violated shall constitute a separate offense.

Section 21. Repeal of conflicting ordinances.

All ordinances or parts of ordinances in conflict herewith

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are hereby repealed.


Section 22. Effective date.

This Ordinance shall become effective after passage and ten (10) days from the publishing of the caption in a newspaper of general circulation in the City of Raymondville, Texas.

PASSED AND APPROVED on this 9TH day of MAY,
1995.

CITY OF RAYMONDVILLE, TEXAS


C.M. CROWELL, MAYOR


JOSE L. LOPEZ, SECRETARY