

ORDINANCE NO. 683

AN ORDINANCE AMENDING SECTION 13 OF ARTICLE IV “JUNKED, WRECKED, ABANDONED PROPERTY” OF CHAPTER 13 “HEALTH REGULATION AND NUISANCES” OF THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, TO INCLUDE NONMOTOR DRIVEN VEHICLES; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS, ORDINANCES, RESOLUTIONS, AND/OR INFORMAL POLICIES WHICH ARE IN ANY MANNER IN CONFLICT OR INCONSISTENT WITH THIS ORDINANCE; PROVIDING THAT A VIOLATION OF THIS ORDINANCE CONSTITUTES A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED \$200.00; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST COLUMBIA, TEXAS:

Section 1

Section 13 of Article IV “Junked, Wrecked, Abandoned Property” of Chapter 13 “Health Regulation and Nuisances” of the Code of Ordinances of the City of West Columbia, Texas, shall be and is hereby amended in its entirety to read as follows:

“DIVISION 2. JUNKED VEHICLES*

***Cross reference(s)**--Traffic and motor vehicles, Ch.18.

State law reference(s)--Junked vehicles, Transportation Code, Section 683.071.

Sec. 13-106. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Antique vehicle* shall mean a passenger car or truck that is at least twenty-five years old.

(2) *Collector* shall mean 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 his own use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

(3) **Demolisher** shall mean any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle motor vehicles.

(4) **Junked vehicle** shall mean any motor vehicle as defined in Transportation Code, Section 683.071, which is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked, partially dismantled, discarded or that remains inoperative for a continuous period of more than forty-five (45) days.

(5) **Motor vehicle** shall mean any motor vehicle subject to registration pursuant to the Transportation Code, Section 541.201.

(6) **Nonmotor driven vehicle** shall mean recreational vehicles, campers, or any other vehicle not driven by a motor.

(7) **Police department** shall mean the police department of the city acting under the general police power authority as vested in such department by the city.

(8) **Special interest vehicle** shall mean a motor vehicle of any age which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

(Code 1977, ' 8-26)

Cross reference(s)--Definitions and rules of construction generally, ' 1-2.

Sec. 13-107. Declaration of nuisance.

The city council declares that Junked vehicles or Nonmotor driven 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, tend to reduce the value of private property, invite vandalism, create fire hazards, 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 and such vehicles are therefore declared to be a public nuisance.

(Code 1977, ' 8-27)

State law reference(s)--Similar provision, Transportation Code, Section 683.072.

Sec. 13-108. Notice of Nuisance.

In the event that the police department shall deem a Junked vehicle or Nonmotor

driven vehicle to constitute a public nuisance, the department shall give at least ten (10) days' notice as follows:

(a) *Private property.* If such Junked vehicle or Nonmotor driven vehicle is situated on private property, such notice shall state the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days and further that a request for a hearing must be made before expiration of such ten-day period. Such notice shall be mailed, by certified mail with a five-day return requested, to the last known registered owner of the Junked vehicle or Nonmotor driven vehicle, any lien holder of record and the owner or the occupant of the private premises on which such public nuisance exists. If the notice is returned undelivered by the United States post office, official action to abate the nuisance shall be continued to a date not less than ten (10) days from the date of such return.

(b) *Public property.* If the Junked vehicle or Nonmotor driven vehicle is situated on public property, the notice shall state the nature of the public nuisance on public property or on a public right-of-way and that it must be removed and abated within ten (10) days and further that a request for a hearing must be made before expiration of the ten-day period. Such notice shall be mailed, by certified mail with a five-day return requested, to the owner or the occupant of the public premises or to the owner or the occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists. If the notice is returned undelivered by the United States post office, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the date of such return.

(Code 1977, ' 8-28)

State law reference(s)--Similar provision, Transportation Code, Section 683.074, et. seq.

Sec. 13-109. Public hearing.

A public hearing shall be held, if requested, prior to the removal of the Junked vehicle or Nonmotor driven vehicle or part thereof as a public nuisance. The hearing shall be held before the city council or any other board, commission, or official of the city as may be designated by the city council from time to time, when such a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the Junked vehicle or Nonmotor driven vehicle is located, within ten (10) days after service of notice to abate the nuisance. If the city council determines the Junked vehicle or Nonmotor driven vehicle or part thereof in question is a public nuisance, it shall pass a resolution declaring and requiring the removal of the Junked vehicle or Nonmotor driven vehicle or part thereof and including a description of the Junked vehicle or Nonmotor driven vehicle and the correct identification number and license number of the vehicle, if available at the site.

(Code 1977, ' 8-29)

State law reference(s)--Similar provision, Transportation Code, Section 683.076.

Sec. 13-110. Removal of Junked vehicles or Nonmotor driven vehicles.

The police department shall enforce and administer this division. Upon the passage of a resolution by the city council so directing or in the event no demand for a public hearing is received pursuant to section 13-108, upon the expiration of ten (10) days from the date of notice as provided above the police department shall remove the Junked vehicles or Non-motor driven vehicles and dispose of them in accordance with this division. The police department may enter upon private property for the purposes specified herein to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or cause the removal by other duly authorized persons of a vehicle or parts thereof declared to be a nuisance pursuant to this division. The municipal court shall have the authority to issue all orders necessary to enforce this division.

(Code 1977, ' 8-29.1)

State law reference(s)--Similar provision, Transportation Code, Section 683.074.

Sec. 13-111. Disposal of Junked vehicles or Nonmotor driven vehicles.

Once a Junked vehicle or Nonmotor driven vehicle has been removed pursuant to this division, it shall not be reconstructed or made operable in any manner. Such Junked vehicles or Nonmotor driven vehicles or parts thereof shall be disposed of by removal to a scrapyard, demolishers or any suitable site operated by the city for processing as scrap or salvage.

(Code 1977, ' 8-29.2)

State law reference(s)--Similar provision, Transportation Code, Section 683.078.

Sec. 13-112. Notice to the highway department.

The police department shall give notice to the state highway department and public transportation within five (5) days after the date of removal identifying the vehicle or part thereof. The department shall forthwith cancel the certificate of title to such vehicle pursuant to Transportation Code, Section 683.074.

(Code 1977, ' 8-29.3)

State law reference(s)--Similar provision, Transportation Code, Section 501.001, et. seq.

Sec. 13-113. Exceptions.

This division shall not apply to a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private

property, a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard or unlicensed, operable or inoperable antique or special interest vehicles 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 ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

(Code 1977, ' 8-29.4)

State law reference(s)--Similar provision, Vernon's Ann. Civ. St. art. 4477-9a, ' 5.09(9).

Sec. 13-114. Penalty.

Any person violating any provision of this division shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed \$200.00.

Sec. 13-115-130. Reserved.

DIVISION 3. ABANDONED MOTOR VEHICLES AND NONMOTOR DRIVEN VEHICLES*

***Cross reference(s)**--Traffic and motor vehicles, Ch. 18.

State law reference(s)--Abandoned motor vehicles, Transportation Code, Section 683.

Sec. 13-131. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) ***Abandoned motor vehicle*** shall mean a motor vehicle that is inoperable and over five (5) years old and is left unattended on public property for more than forty-eight (48) hours, or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (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 forty-eight (48) hours, or a motor vehicle left unattended on the rights-of-way of any designated roadway within this city in excess of forty-eight (48) hours.

(2) ***Antique auto*** shall mean passenger cars or trucks that were manufactured in 1925 or before, or which become thirty-five (35) or more years old.

(3) *Collector* shall mean 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 his own use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

(4) *Motor vehicle* shall mean any motor vehicle subject to registration pursuant to the Transportation Code, Section 541.201.

(5) *Abandoned nonmotor driven vehicle* shall mean recreational vehicles, campers, or any other vehicle not driven by a motor.

(6) *Special interest vehicle* shall mean a motor vehicle of any age which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

(Ord. No. 269, ' 1(18-71), 2-12-79)

Cross reference(s)--Definitions and rules of construction generally, ' 1-2.

State law reference(s)--Similar provision, Transportation Code, Section 683.001, et seq.

Sec. 13-132. Chief of police authorized to take possession.

The Chief of Police is hereby authorized to remove and take into custody any Abandoned motor vehicle or Abandoned nonmotor driven vehicle found on public or private property in this city pursuant to the procedure set forth in section 13-133.

(Ord. No. 269, ' 1(18-72), 2-12-79)

State law reference(s)--Similar provision, Transportation Code, Section 683.011.

Sec. 13-133. Notification to owner.

(a) The police department, when it takes into custody an Abandoned motor vehicle or Abandoned nonmotor driven vehicle, shall notify not later than the tenth day after taking the vehicle into custody, by certified mail, the last known registered owner of the vehicle and all lien holders of record pursuant to the Transportation Code, Section 541.201, or Chapter 31, Parks and Wildlife Code, if it is a boat, motor boat or vessel, 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 or Abandoned nonmotor driven vehicle, set forth the location of the facility where the vehicle is being held, inform the owner and any lien- holders of their right to reclaim the vehicle not later than the twentieth day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garage keeper's charges if notice is

under Transportation Code, Section 683.032. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the 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 by one (1) publication in a newspaper of general circulation in the area where the vehicle was abandoned is sufficient notice under this article. The notice by publication may contain multiple listings of 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 vehicle are as set forth in a valid notice given under this section.

(d) The police department or an agent of a police department that takes custody of vehicle under this section is entitled to reasonable storage fees for:

- (1) A period of not more than ten (10) days beginning on the day the 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 department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

(Ord. No. 269, ' 1(18-73), 2-12-79)

State law reference(s)--Similar provisions, Transportation Code, Section 683.012, et. seq.

Sec. 13-134. Auction.

If an Abandoned motor vehicle or Abandoned nonmotor driven vehicle has not been reclaimed as provided for in section 13-133, the chief of police shall sell the Abandoned motor vehicle or Abandoned nonmotor driven vehicle at a public auction. Proper notice of the public auction shall be given with the time and place of such auction. The purchaser of the vehicle shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department and shall be entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an Abandoned motor vehicle or Abandoned nonmotor driven vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred under section 13-133 whenever the proceeds from a sale of such other vehicles are sufficient to meet these expenses and costs. Any remainder

from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (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 vehicle in custody, if the proceeds from a sale of another vehicle are insufficient to meet these expenses and costs.

(Ord. No. 269, '1(18-74), 2-12-79)

Section Two

Any and all Code provisions, rules, ordinances, police regulations, resolutions, and/or policies of the City of West Columbia, whether written, or otherwise, which are in any manner in conflict with or inconsistent with this ordinance, shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

Section Three

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase, or other portion of this ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provision of this ordinance which are not specifically designated as being illegal, invalid or unenforceable.

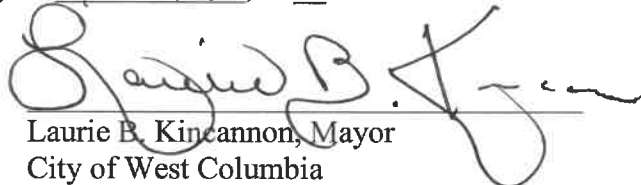
Section Four


Failure to observe and obey the article adopted above shall constitute a misdemeanor and shall be punishable by a fine not to exceed Two Hundred Dollars (200.00), constituting a separate offense.

Section Five

This ordinance shall be effective and applicable immediately from and after the date of its passage and approval by the City Council of the City of West Columbia.

PASSED and APPROVED this the 8th day of November, 2020.


Laurie B. Kincannon, Mayor
City of West Columbia


Kelli Kuban, City Secretary
City of West Columbia