

ORDINANCE 17-193

AN ORDINANCE OF THE CITY OF GARRETT, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 90-05-2 AND MAKING IT A VIOLATION TO STAND, PARK OR STOP A VEHICLE IN CERTAIN LOCATIONS WITHIN THE CITY LIMITS OF GARRETT, TEXAS; PROVIDING FOR THE IMPOUNDMENT OF VEHICLES STANDING, PARKING OR STOPPING IN VIOLATION OF THIS ORDINANCE; ESTABLISHING RULES GOVERNING THE USE AND PLACEMENT OF TRAFFIC CONTROL DEVICES IN THE CITY LIMITS OF GARRETT, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE PROVIDING A PENALTY CLAUSE ESTABLISHING A FINE NOT TO EXCEED \$200.00 FOR VIOLATION OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council ("Council") of the City of Garrett, on or about May 21, 1990, passed Ordinance No. 90-05-2; and

WHEREAS, the Council of the City serves as the elected governing body of the City directly responsible for the promotion and protection of the public health and safety of its citizens and inhabitants; and

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the safety of its inhabitants (TEXAS LOCAL GOVERNMENT CODE § 51.012); and

WHEREAS, the City is authorized by Chapter 683, *et. seq.* of the Texas Transportation Code to take abandoned vehicles into custody

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARRETT, TEXAS THAT:

ARTICLE I – STOPPING, STANDING AND PARKING OF VEHICLES

SECTION 1: DEFINITIONS.

“Abandoned Motor Vehicle.” (a) For the purposes of this chapter, a motor vehicle is abandoned if the motor vehicle:

- (1) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (2) has remained illegally on public property for more than 48 hours;
- (3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;

(4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;

(5) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or

(6) is considered an abandoned motor vehicle under Section 644.153(r) of the Texas Transportation Code.

(b) In this section, "controlled access highway" has the meaning assigned by Section 541.302 of the Texas Transportation Code.

"Abandoned nuisance vehicle" means a motor vehicle that is at least 10 years old and is of a condition only to be junked, crushed, or dismantled.

"Code" shall mean the "Texas Transportation Code" unless otherwise indicated specifically herein.

"Improved parking surface" or "improved surface" means an area used for the parking or storage of vehicles that is overlaid or otherwise paved with concrete, asphalt, paving stones or other hard-surfaced durable material approved by the building official.

"Motor vehicle" means a vehicle that is subject to registration under Chapter 501 of the Texas Transportation Code.

SECTION 2: PARKING ON UNIMPROVED SURFACES ILLEGAL.

Parking is only permitted on improved surfaces. A person commits an offense if the person causes, suffers, permits or allows:

- a. The parking or storage of any vehicle within a front yard of a residential single-family, townhouse, duplex lot or tract, upon any surface other than an improved surface; or
- b. The parking or storage of any vehicle within a residential side yard or the residential rear yard of a corner lot, of a residential single-family, duplex or townhouse lot or tract, upon any surface other than an improved surface unless otherwise concealed from view from all public street rights-of-way by:

1. A solid, opaque screening fence or wall at least six feet in height;
2. Vegetation consisting of a solid hedgerow of evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum height of six feet;
3. Any combination of subsections b.1 and b.2 of this section that effectively conceals the vehicle from view and accomplishes the required screening height; or
4. Any other form of compatible and appropriate screening as so determined by the building official.

SECTION 3: PRESUMPTION THAT OWNER OF VEHICLE IS VIOLATOR.

In any prosecution charging the violation of any ordinance or regulation governing the standing or parking of a vehicle, proof that any particular vehicle described in the complaint was parked in violation of any such ordinance or regulations, together with proof that the defendant named in the complaint was the registered owner of such vehicle at the time of such parking, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

SECTION 4: IMPOUNDMENT OF STANDING OR PARKED VEHICLES.

a) Authority. Any vehicle which shall be, or remain, standing or parked upon any public street, avenue, way, alley, or other public place may, under the following circumstances, be removed by, or under the order of, the Chief of Police and placed in storage in a privately-operated garage or other place designated or maintained by the City;

1) When any vehicle is found upon a street, avenue, alley, way, or public place and a report has been previously made that such vehicle has been stolen, or a complaint has been filed and a warrant issued thereon, charging that such vehicle has been stolen or converted in violation of the law;

2) When any police officer of the City has reasonable grounds to believe that any vehicle has been abandoned;

3) When any police officer arrests any person driving, or in control of, a vehicle for an alleged offense and such officer is (or may be) required by law to take the one arrested immediately before a magistrate; or if the arrested person is immediately taken before a magistrate; or when the arrested person is the sole occupant or the owner of the vehicle and is immediately placed in custody;

4) When a vehicle is so disabled that its normal operation is impossible or impractical and the person in charge of the vehicle is incapacitated by reason of physical injury or other causes to such an extent as to be unable to provide for its removal or custody, or cannot be found, or is not in the immediate vicinity of such vehicle;

5) When any vehicle is left standing or parked unattended for more than forty-eight (48) hours in violation of any applicable provision of State Law, City ordinance, rules or regulations; provided, however – that in the event such vehicle is parked or standing immediately in front of, or immediately adjacent to, property owned by the owner of such vehicle, or property rented by such owner – before such vehicle shall be removed, the owner thereof shall be given written notice, in the form of “NOTICE OF VIOLATION” sticker attached to the windshield or side glass of such vehicle, or to such vehicle if no glass is present, that such vehicle is in violation of State Law, City ordinance, rule or regulation, and that said vehicle will be removed and stored at owner’s expense if such vehicle is not removed by the owner, or by one authorized by the owner, within forty-eight (48) hours of the date and time of said notice.

6) When any vehicle is left standing or parked unattended in any area that has been designated as a "TOW-AWAY ZONE" by this ordinance, or by any other rule or regulation of the City.

b. Claiming of Vehicle by Owner. In order to obtain possession of any vehicle stored under the provisions of this Section, the claimant must produce satisfactory evidence of the ownership or right to possession within twenty (20) days from the date of such storage, and in addition thereto, must pay all charges for removal and storage of such vehicle in addition to any fine.

c. Sale of Vehicle. If the vehicle removed under this Section is not claimed within twenty (20) days from the date of storage, the same may be sold by the City or garage where the same is stored for recovery of charges, as provided by law.

d. Liability to City. The provisions of this Section shall not be construed to relieve from, or lessen the responsibility of, any person who shall leave his vehicle parked on the streets of the City in such a manner that the same may be impounded; nor shall the City be held as assuming any such liability by reason of the impounding or the causing to be impounded, of such vehicle.

e. Taking and Abandoned Motor Vehicle into Custody: Notice.

(1) A law enforcement agency shall send notice of abandonment to:

(A) the last known registered owner of each motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and

(B) each lienholder recorded:

(i) under Chapter 501 for the motor vehicle;

(ii) with the Federal Aviation Administration or the secretary of state for the aircraft; or

(iii) under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.

(1-A) A law enforcement agency that takes into custody an aircraft shall contact the Federal Aviation Administration in the manner described by Section 22.901 to attempt to identify the owner of the aircraft before sending the notice required by Subsection (a).

(2) The notice under Subsection (a) must:

(A) be sent by certified mail not later than the 10th day after the date the agency:

(i) takes the abandoned motor vehicle, aircraft, watercraft, or outboard motor into custody; or

(ii) receives the report under Section 683.031;

- (B) specify the year, make, model, and identification number of the item;
- (C) give the location of the facility where the item is being held;
- (D) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:

- (i) towing, preservation, and storage charges; or
- (ii) garage keeper's charges and fees under Section 683.032 and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the delinquent administrative penalty and costs; and

(E) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (D) 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.

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

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

(4) Notice by publication:

- (a) 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
- (b) may contain a list of more than one abandoned motor vehicle, aircraft, watercraft, or outboard motor.

(5) A law enforcement agency is not required to send a notice, as otherwise required by Subsection (1), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to the department for the disposal of the vehicle.

(6) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name

and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

SECTION 5: UNATTENDED VEHICLES.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the roadway or highway.

SECTION 6: PROHIBITED PARKING

a. Specified Places. No person shall stop, stand or park a vehicle – except when necessary to avoid conflict with other traffic or in compliance with law, the direction of a police officer, or a traffic-control device on any City-owned streets, or as otherwise designated in this section.

b. Specified Streets

1) Except as otherwise permitted by this Section, no person shall stop, stand, or park a vehicle on, or adjacent to, any roadway designated in this Subsection, for any amount of time exceeding thirty (30) minutes.

c. Moving of Vehicles. No person shall move a vehicle not lawfully under his control into any prohibited area specified above or any distance from a curb, except as permitted by law.

d. Specified Purpose. No person shall park a vehicle upon any street in the City for principal purpose of:

1. Displaying such vehicle for sale;
2. Washing, greasing, or repairing such vehicle, except such repairs as necessitated by an emergency;
3. Advertising, except by permit issued by the Chief of Police and under the conditions stipulated therein.

SECTION 7: ADDITIONAL PARKING REGULATIONS. Except as otherwise permitted by this Section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked, facing in the direction of authorize traffic movement, with the right-hand wheels parallel to and within eighteen (18”) inches of the right-hand curb or edge of roadway.

SECTION 8: PARKING IN PROHIBITED AREAS. It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle registered in such person’s name or owned and operated by such person or in such persons possession or under such person’s control to be or remain in any space or area in which parking is prohibited, or in a time-limit parking are for a longer period of time than that designated by the markings on the street or by clearly visible signs.

SECTION 9: PARKING IN EXCESS OF FORTY-EIGHT (48) HOURS PROHIBITED. It shall be unlawful for the owner or operator of any vehicle to allow, cause, or

permit such vehicle to remain standing or parked on any street, alley, avenue, or public way with the City for more than forty-eight (48) hours continuously.

SECTION 10: VEHICLES EXCEEDING LENGTH OF TWENTY-FIVE FEET (25’). It shall be unlawful for any person to park any vehicle, trailer, or combination thereof which shall exceed twenty-five feet (25’) in length on the streets, alleys, or other public ways of the City.

ARTICLE II – PENALTY AND SEVERABILITY AND RECITALS.

SECTION 1: PENALTY. Any person violating any provisions of this Ordinance shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than two-hundred dollars (\$200), with the exception of any conviction for the violation of Article III, Section 7, which shall carry a fine of two-hundred (\$200), unless it is shown on the trial for said violation of Article III, Section 7, that the person had been previously convicted for a violation of said Section, at which time the fine for subsequent convictions shall be five-hundred (\$500) dollars.

SECTION 2: SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are separable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality of invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.


ARTICLE III – MISCELLANEOUS PROVISIONS

SECTION 1: RECITALS. The Council hereby adopts the Recitals and finding set forth in the preamble hereof as if fully incorporated.

SECTION 2: PUBLICATION. The City Secretary of the City of Garrett is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the laws of the State of Texas.

SECTION 3: EFFECTIVE DATE. This ordinance shall become effective immediately from and after its passage and publication in accordance with Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED THIS 12th DAY OF Dec, 2017


Matthew Newsom, Mayor

ATTEST:


Judy Braddock, City Secretary