

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2016- 41

AN ORDINANCE OF THE CITY OF SANDY OAKS, TEXAS ADOPTING A PROHIBITION OF THE PARKING OF A MOTOR VEHICLE IN A PUBLIC RIGHT-OF-WAY; PROVIDING FOR PROCEDURES FOR ABATEMENT; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Sandy Oaks, Texas ("City") is a Type A General Law municipality with the authority to adopt ordinances that are not inconsistent with state law, that are necessary for the government, interest, welfare, or good order of the municipality pursuant to section 51.012 of the Local Government Code; and

WHEREAS, section 217.002 of the Local Government Code permits a Type A municipality to abate and remove a nuisance and punish by fine the person responsible for the nuisance and define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance, including fireworks within the City; and

WHEREAS, the City Council of the City of Sandy Oaks, Texas ("City") has determined a municipal need to establish parking regulations for certain types of motor vehicles in the public right-of-way and procedures for abatement for abandoned vehicles; and

WHEREAS, Chapter 683 of the Texas Transportation Code authorizes a law enforcement agency to take into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public or private property in accordance with Chapter 683; and

WHEREAS, the City Council of the City has determined these requirements are necessary to maintain the safety, governance and good order of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:

Section 1. Definitions.

- (a) "Apparatus" is a group or combination of instruments, machinery, tools, materials, etc.
- (b) "Boat" is a vessel capable of carrying one or more people and intended for use on the water.
- (c) "Camper" is a vehicle with facilities for sleeping and for habitation and intended to be towed or carried by another vehicle.
- (d) "Equipment" is a set of tools, devices, kit, peripherals, etc., assembled for a specific purpose to include though not limited to furniture, appliances, and any household items.
- (e) "Motor vehicle" is a self-propelled vehicle.

(f) "Park or parking" is the standing of a vehicle, occupied or not, on public property or a public right-of-way.

(g) "Recreational vehicle" includes, but is not limited to; any self-propelled vehicle containing sleeping and other facilities for habitation, or vehicle primarily used for recreational purposes, including all-terrain vehicles, boats, boat trailers, camper trailers, jet skis, motorhomes and snowmobiles.

(h) "Trailer" is a vehicle with or without motive power designed to be drawn by a motor vehicle and to transport persons or property.

(i) "Utility trailer" includes, but is not limited to, a trailer generally used for the hauling of miscellaneous household, yard materials or boats.

(j) "Vehicle" is a device that can be used to transport or draw persons or property.

(k) "Watercraft" is a boat or other vessel that travels on water.

Section 2. Parking of Motor Vehicle in Public Right-of-Way Prohibited.

(a) It shall be unlawful and an offense for any person to park a motor vehicle, trailer, utility trailer, recreational vehicle, camper, boat, watercraft, equipment, or apparatus on a street, road, or public right-of-way within the corporate limits of the City, or to park or leave standing any motor vehicle, trailer, utility trailer, camper, boat, watercraft, recreational vehicle, equipment, or apparatus within the city limits in such a manner as to impede a safe traffic flow.

(b) A motor vehicle, trailer, utility trailer, recreational vehicle, camper, boat, watercraft, equipment, or apparatus will be considered abandoned property if it remains in a public right-of-way and not removed after 48 hours. The City maintains the authority to remove such property and may do so if said property is not removed within 48 hours. If said motor vehicle, trailer, utility trailer, recreational vehicle, camper, boat, watercraft, equipment, or apparatus is obstructing traffic or creating a hazard, it may be removed immediately by the City.

(c) This ordinance shall not apply to city, state, county or contracted individuals or companies while performing services of official capacity for the City, *i.e.*, vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc.; and vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer lines.

(d) All costs associated with property removal shall be borne by the owner, operator, person in control of the property or other person responsible for the property.

Section 3. Procedures for Abatement.

(a) The City Marshal's office, when desiring to remove a motor vehicle, trailer, utility trailer, recreational vehicle, camper, boat, watercraft, equipment, or apparatus from a street, road or public right-of-way, shall comply with the applicable procedures in this section.

(b) The City Marshal's office must send notice to the last known registered owner of the vehicle, each lienholder of the vehicle, and any person who has previously filed a theft report on the vehicle, by certified mail not later than the tenth day after the office takes the abandoned motor vehicle into custody or receives the report under Section 683.031 of the Texas Transportation Code. Such notice must (1) specify the year, make, model, and identification number of the vehicle; (2) give the location of the facility where the motor vehicle is being held; (3) inform the owner and lienholder that they have the right to claim the motor vehicle within 20 days; and (4) inform the parties that failure to pay the required charges and retrieve the motor vehicle within the applicable period will be a waiver by the owner or lienholder of all interest in the vehicle, and the vehicle can then be sold by the City Marshal's office at a public auction.

(c) If, after 20 days of sending the appropriate notice under this Section, an abandoned motor vehicle is not claimed, the City Marshal's office may sell the vehicle at public auction, transfer the vehicle, use the vehicle for the office, or transfer the vehicle to any city, county, or school district.

(d) Alternatively, the City Marshal's office may give notice by publication in one newspaper of general circulation in the area where the motor vehicle was abandoned 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. Notice by publication must be published in the same period that is required by Subsection (b) above for notice by certified mail and contain all of the information required by that Subsection and may contain a list of more than one abandoned motor vehicle.

(e) The City Marshal's office that takes into custody an abandoned vehicle is entitled to reasonable storage fees: (1) for not more than 10 days, beginning on the day the vehicle is taken into custody and ending on the day the required notice is mailed; and (2) beginning on the day after the day the City Marshal's office mails notice and ending on the day accrued charges are paid and the vehicle is removed.

(f) This Section does not remove authority of the City to remove/tow vehicles that are abandoned, obstructing traffic, or creating a hazardous situation as outlined in the Texas Transportation Code.

Section 4. Penalty. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of Two Hundred Dollars (\$200.00). Each day that a violation is permitted to exist shall constitute a separate offense.

Section 5. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. Publication. The City Clerk is hereby authorized and directed to publish the caption of this Ordinance together with the penalty provision contained herein in the manner and for the length of time prescribed by law.

Section 7. Effective Date. This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

PASSED AND APPROVED on this 11th day of February, 2016.

CITY OF SANDY OAKS, TEXAS


Micki L. Ball, Mayor

ATTEST:


Charlotte Rabe, City Clerk