

ORDINANCE NO. 20021112-D

AN ORDINANCE OF THE CITY OF GRAPELAND, TEXAS, DEFINING AIRCRAFT, MOTOR VEHICLES, ABANDONED VEHICLES, OUTBOARD MOTORS, VEHICLES AND WATERCRAFT; AUTHORIZING IMMEDIATE REMOVAL OF A VEHICLE LEFT ON PUBLIC PROPERTY THAT IS AN OBSTRUCTION TO TRAFFIC; PERMITTING THE CITY OF GRAPELAND TO TAKE INTO CUSTODY ANY ABANDONED MOTOR VEHICLE, AIRCRAFT, WATERCRAFT OR OUTBOARD MOTOR FOUND ON PUBLIC OR PRIVATE PROPERTY; PROVIDING FOR NOTICE; PROVIDING FOR RECOVERY OF REASONABLE STORAGE FEES; PROVIDING FOR SALE BY AUCTION OF ABANDONED VEHICLES; PROVIDING FOR THE DISPOSITION OF AUCTION PROCEEDS; PERMITTING THE GRAPELAND POLICE DEPARTMENT TO USE CERTAIN ABANDONED MOTOR VEHICLES; PROVIDING A SEVERABILITY CLAUSE; CONTAINING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF GRAPELAND, TEXAS:

SECTION 1. Definitions.

(a) "Aircraft" means a device that is invented, used or designated for air navigation or flight, other than a parachute or other device used primary as safety equipment.

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

(c) For the purposes of this Ordinance, a vehicle is abandoned if the 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; or
- (4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours.

(d) "Outboard motor" means an outboard motor subject to registration under Chapter 31, Texas Parks and Wildlife Code.

(e) "Vehicle" means an aircraft, motor vehicle, outboard motor or watercraft.

(f) "Watercraft" means a vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code.

SECTION 2. Removal of a Vehicle Left on Public Property that is an Obstruction to Traffic.

Notwithstanding the other provisions of this Ordinance, the City of Grapeland is authorized to immediately remove a motor vehicle, aircraft, watercraft or outboard motor that is an obstruction to traffic and was left on public property.

SECTION 3. Authority to Take Abandoned Vehicles into Custody.

(a) The City of Grapeland may take into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public or private property.

(b) The City of Grapeland may use its personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the City of Grapeland.

SECTION 4. Notice.

(a) The City of Grapeland shall send notice of abandonment to:

- (1) the last known registered owner of each motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the department; and
- (2) each lienholder recorded:
 - (A) for the motor vehicle, under Chapter 501 of the Texas Transportation Code;
 - (B) with the Federal Aviation Administration or the Secretary of State of Texas for aircraft; and
 - (C) under Chapter 31, Texas Parks and Wildlife Code, for watercraft or outboard motors.

(a-1) If the City of Grapeland takes into custody an aircraft, it shall contact the Federal Aviation Administration in the manner described by Section 22.901 of the Texas Transportation Code to attempt to identify the owner of the aircraft before sending the notice required by Subsection (a).

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

- (1) be sent by certified mail not later than the 10th day after the date the City of Grapeland takes the abandoned motor vehicle, aircraft, watercraft, or outboard motor into custody.
- (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 20th day after the date of the notice, on payment of towing, preservation, and storage charges;
- (5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (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 the official newspaper of the City of Grapeland is sufficient notice under this section 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 abandoned motor vehicle, aircraft, watercraft, or outboard motor.

(e) In addition to the notice required under Subsection (a), if the City of Grapeland takes an abandoned motor vehicle into

custody, it 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 City of Grapeland takes the vehicle into custody. It 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. Storage Fees.

(a) When the City of Grapeland takes into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor and stores the vehicle at a storage facility owned by or under the control of the City of Grapeland, it is entitled to reasonable storage fees:

- (1) for not more than 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 City of Grapeland mails notice and ending on the day accrued charges are paid and the vehicle, aircraft, watercraft, or outboard motor is removed.

(b) For purposes of this Ordinance, a reasonable storage fee is \$25.00 per day.

SECTION 6. Auction or Use of Abandoned Items; Waiver of Rights.

(a) If an abandoned motor vehicle, aircraft, watercraft, or outboard motor is not claimed under Section 4:

- (1) the owner or lienholder:
 - (A) waives all rights and interests in the item; and
 - (B) consents to the sale of the item by public auction or the transfer of the item, if a watercraft, as provided by Subsection (d); and
- (2) the City of Grapeland may sell the item at a public auction, transfer the item, if a watercraft, as provided by Subsection (d), or use the item as provided by Section 8.

(b) Proper notice of the auction shall be given. A garage

keeper who has a garage keeper's lien shall be notified of the time and place of the auction.

(c) The purchaser of a motor vehicle, aircraft, 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 City of Grapeland; and
- (3) is entitled to register the motor vehicle, aircraft, watercraft, or outboard motor with, and receive a certificate of title from, the appropriate authority.

(d) On consent of the Texas Parks and Wildlife Department, the City of Grapeland may transfer a watercraft that is not claimed under Section 4 to the Texas Parks and Wildlife Department for use as part of an artificial reef under Chapter 89, Texas Parks and Wildlife Code, or for other use by the Texas Parks and Wildlife Department permitted under the Texas Parks and Wildlife Code. On transfer of the watercraft, the Texas Parks and Wildlife Department:

- (1) takes title free and clear of all liens and claims of ownership; and
- (2) is entitled to register the watercraft and receive a certificate of title.

SECTION 7. Auction Proceeds.

(a) The City of Grapeland is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, aircraft, watercraft, or outboard motor for:

- (1) the cost of the auction;
- (2) towing, preservation, and storage fees resulting from the taking into custody;
- (3) the cost of notice or publication as required by Section 4; and
- (4) any compensation made by the City of Grapeland under Subsection (e) to property owners whose property was damaged as a result of a pursuit involving the motor vehicle.

(b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 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, aircraft, 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 of Grapeland may transfer funds in excess of \$1,000 from the account to the City's general revenue account to be used by the Grapeland Police Department.

(e) The Grapeland Police Department may use funds transferred under Subsection (d) to compensate property owners whose property was damaged as a result of a pursuit involving a law enforcement agency or a federal law enforcement agency, regardless of whether the Grapeland Police Department would be liable under Chapter 101, Texas Civil Practice and Remedies Code.

SECTION 8. Law Enforcement Agency Use of Abandoned Vehicles.

(a) If the Grapeland Police Department takes an abandoned motor vehicle into custody that is not claimed under Section 4, it may:

- (1) use the vehicle for agency purposes; or
- (2) transfer the vehicle to any other municipal or county agency, a groundwater conservation district governed by Chapter 36, Texas Water Code, or a school district for the use of that agency or district.

(b) The Grapeland Police Department shall auction the vehicle as provided by this subchapter if the Grapeland Police Department or the municipal or county agency, groundwater conservation district, or school district to which the vehicle was transferred under Subsection (a) discontinues use of the vehicle.

(c) The Grapeland Police Department must comply with the notice requirements of Section 4 before the law enforcement agency may transfer a vehicle under Subsection (a)(2).

(d) This Section does not apply to an abandoned vehicle on which there is a garage keeper's lien.

SECTION 9. Severability

The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of the Ordinance shall for any reason be held to be in valid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of the Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 10: Repealing Clause


All Ordinances, or parts of Ordinances, inconsistent or in conflict with the provisions of the Ordinance are hereby repealed.

SECTION 11: Effective Date.

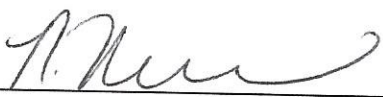
This Ordinance shall become effective five (5) days after the date of its passage.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Grapeland, Texas, on the 13th day of April, 2021.

CITY OF GRAPELAND

BY: 
MITCHELL WOODY, MAYOR

ATTEST:



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WILLIAM R. PEMBERTON,
CITY ATTORNEY