

ORDINANCE NO. 1323

AN ORDINANCE adding Chapter 8 “Health and Sanitation”, Article 6 “Abandoned Vehicles” to the Municipal Code of the City of Chadron, Nebraska; to repeal all ordinances and parts of ordinances in conflict herewith; directing the publication of this Ordinance and prescribing the time when this Ordinance shall be in full force and effect.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CHADRON, NEBRASKA:

Section 1. Chapter 8, Article 6 “Abandoned Vehicles”, Sections 8-600 through 8-610 shall read as follows:

8-600 ABANDONED VEHICLE

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE DEFINED

(1) A motor vehicle is an **ABANDONED VEHICLE**:

(a) If left unattended upon any street, highway, sidewalk or alley where such vehicle constitutes an obstruction of traffic;

(b) If left unattended upon any street and parked so illegally as to constitute a definite hazard or obstruction to the normal movement of traffic or proper street or highway maintenance;

(c) If left unattended upon any public right of way, street, highway, sidewalk or alley with one or more tires or wheels removed, propped up on jacks, blocks, or other support, or having one or more tires with insufficient air to allow the vehicle to be operated or from which the engine or other parts have been removed altered, damaged or otherwise deteriorated that the motor vehicle is incapable of being drawn under its own power or drawn by a motor vehicle;

(d) If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than 6 hours on any public property;

(e) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(f) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(g) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(h) If left for more than 30 days in the custody of the City law enforcement agency after the agency has sent a letter to the last-registered owner.

(2) An all-terrain vehicle or minibike is an **ABANDONED VEHICLE**:

(a) If left unattended upon any street, highway, sidewalk or alley where such vehicle constitutes an obstruction of traffic;

(b) If left unattended upon any street and parked so illegally as to constitute a definite hazard or obstruction to the normal movement of traffic or proper street or highway maintenance;

(c) If left unattended upon any public right of way, street, highway, sidewalk or alley with one or more tires or wheels removed, propped up on jacks, blocks, or other support, or having one or more tires with insufficient air to allow the vehicle to be operated or from which the engine or other parts have been removed altered, damaged or otherwise deteriorated that the motor vehicle is incapable of being drawn under its own power or drawn by a motor vehicle;

(d) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(e) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(f) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(g) If left for more than 30 days in the custody of the City law enforcement agency after the agency has sent a letter to the last-registered owner.

(3) For purposes of this section:

(a) **PRIVATE PROPERTY** means any privately owned property which is not included within the definition of public property.

(b) **PUBLIC PROPERTY** means any public right-of-way, street, highway, alley, or park or other state, county or City owned property.

(c) **MOTOR VEHICLE** shall mean every self-propelled vehicle including a motorcycle or snowmobile and shall include such non-powered vehicles such as trailers; meaning any vehicle, with or without motor power designed for carrying persons or property and shall not include an electric personal assistive mobility device.

(d) **ALL-TERRAIN VEHICLE** shall mean any motorized off-highway vehicle which (i) is fifty inches or less in width, (ii) has a dry weight of nine hundred pounds or less, (iii) travels on three or more low-pressure tires, (iv) is designed for operator use only with no passengers or is specifically designed by the original manufacture for the operator and one passenger, (v) has a seat or saddle designed to be straddled by the operator, and (vi) has handlebars or any other steering assembly for steering control and shall not include an electric personal assistive mobility device.

(e) **MINIBIKE** shall mean a two-wheeled vehicle which has a total wheel and tire diameter of less than fourteen inches or and engine-rated capacity of less than forty-five cubic centimeters displacement or any other two-wheeled motor vehicle primarily designed by the manufacture for off-road use only and shall not include an electric personal assistive mobility device.

(f) **STREET** shall mean that portion of any public highway designed for vehicular traffic and shall include streets, avenues and alleys.

(4) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under section (1).

(Neb. Rev. Stat. §60-1901)

8-601 ABANDONED VEHICLE; TITLE; VEST IN THE CITY

(a) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250.00 or less, title shall immediately vest in the City. Any certificate of title issued under this section to the City shall be issued at no cost to the City. (Neb. Rev. Stat. §60-1902)

8-602 CITY POWERS AND DUTIES

(a) Except for vehicles governed by section 8-601, the City shall make an inquiry concerning the last-registered owner of such vehicle as follows: (i) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or (ii) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(b) The City shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either: (i) It will be sold or will be offered at public auction after 5 days from the date such notice was mailed; or (ii) Title will vest in the City 30 days after the date such notice was mailed. If the agency described in section (1) (d) or (e) of this section also notifies the City that a lien or mortgage

exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(c) Title to an abandoned vehicle, if unclaimed, shall vest in the City: (i) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under section (2) (d) of this section; (ii) Thirty days after the date the notice is mailed if the City will retain the vehicle; or (iii) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(d) After title to the abandoned vehicle vests pursuant to (c) of this section, the City may retain for use, sell, or auction the abandoned vehicle. If the City has determined that the vehicle should be retained for use, the City shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the City intends to retain the abandoned vehicle for its use and that title will vest in the City thirty days after the publication. (Neb. Rev. Stat. §60-1903)

8-603 LAW ENFORCEMENT AGENCY; POWERS AND DUTIES

(a) If a City law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle. This section shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Neb. Rev. Stat. §60-1903.01)

8-604 CUSTODY; WHO ENTITLED

(a) If a state agency caused an abandoned vehicle described in division (1) (h) or (2) (g) of sections (1) and (2) to be removed from public property in this City, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in section (1) (a), (b), (c), (d), (e), (f) (g), or section (2) (a), (b), (c), (d), (e), (f) to be removed from public property in this City, the state agency shall deliver the vehicle to the City which shall have custody. (Neb. Rev. Stat. §60-1904)

8-605 PROCEEDS OF SALE; DISPOSITION

(a) Any proceeds from the sale of an abandoned vehicle in the City's custody less any expenses incurred by the City shall be held by the City without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the City. (Neb. Rev. Stat. §16-1905)

8-606 LIABILITY FOR REMOVAL

(a) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the City, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City or its contractual agency or as a result of any subsequent disposition. (Neb. Rev. Stat. §16-1906)

8-607 PERSON CANNOT ABANDON A MOTOR VEHICLE, ALL TERRAIN VEHICLE OR MINIBIKE

(a) No person shall cause any vehicle to be an abandoned vehicle as described in sections (1) (a), (b), (c), (d), (e), (f), (g) or section (2) (a), (b), (c), (d) (e) or (f). (Neb. Rev. Stat. §60-1907)

8-608 DESTROY, DEFACE, OR REMOVE PARTS; UNLAWFUL; EXCEPTION; VIOLATION; PENALTY

(a) No person other than one authorized by the City or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this section shall be guilty of a Class V Misdemeanor. (Neb. RS 60-1908)

8-609 COST OF REMOVAL AND STORAGE; LAST REGISTERED OWNER; LIABLE

(a) The last-registered owner of an abandoned vehicle shall be liable to the City for the costs of removal and storage of such vehicle. (Neb. Rev. Stat. §60-1909)

8-610 VIOLATIONS; PENALTY

(a) Except as provided in section 8-608, any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, such person shall be

fined according to the Municipal Code of the City of Chadron Blanket Penalty, except that each person so convicted shall be fined in a sum not less than One Hundred Dollars (\$100.00) for the first offense, not less than One Hundred and Fifty Dollars (\$150.00) for the second offense, and not less than Two Hundred Dollars (\$200.00) for the third offense, and each subsequent offense thereafter. Each day that a violation of any of the provisions of this section occurs shall constitute a distinct and separate offense and shall be punished accordingly. (Neb. Rev. Stat. §16-246)

Section 3. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

Passed, approved and ordered published this _____ day of _____, 2008.

CITY OF CHADRON

Mayor

ATTEST:

City Clerk

(S E A L)