

ORDINANCE NO. 04-2003-52

AN ORDINANCE TO AMEND CHAPTER 46 "TRAFFIC AND VEHICLES," ARTICLE III "STOPPING, STANDING AND PARKING," SECTION 46-47, *ET SEQ.*, OF THE GENERAL CODE OF THE CITY OF CENTER POINT TO REVISE THE CHAPTER TO INCLUDE RESTRICTIONS ON PARKING OF VEHICLES AND TO ADD PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the City Council has determined that there has been an increase in residents within the City of Center Point who continue to park vehicles in front yards, side yards, and other property; and

WHEREAS, said parking of vehicles detracts from the City's vision of a clean and nuisance-free environment for all neighborhoods within the City; and

WHEREAS, the City of Center Point has an obligation to provide for and ensure a nuisance-free environment, enhance the beauty of neighborhoods within the City, and to prevent the diminution of value of residents' homes as a result of nuisances; and

WHEREAS, the City of Center Point finds that vehicles parked in the front or side yards or in areas surrounding a residence is detrimental to the general welfare, safety, peace of mind, aesthetic and property of others and tends to cause substantial diminution in the value of the property upon which the vehicles are parked as well as the property in the neighborhood in which such premises are located.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Center Point that Chapter 46 "Traffic and Vehicles," Article III "Stopping, Standing and Parking," Section 46-47 *et seq.* is hereby amended to include the following:

Definitions.

- (a) **Definitions.** For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein.
- (1) Driveway means any area which is constructed for the purpose of parking motor vehicles, and which is improved. It shall also mean an area adjacent to a curb cut providing vehicular access between a street and an off-street parking area, including a circular driveway, and/or as defined by the current subdivision rules and regulations of the City (if applicable).
 - (2) Front or side yard means any portion of a lot or parcel of land which extends its full width and lies between the edge of a public street and the front or side of the principal building on the lot or parcel.
 - (3) Improved means surfaced with asphalt, concrete, brick, or other suitable pavers. Gravel or crushed stone may be used if gravel is at least two inches deep throughout the vehicular use areas and the vehicular use area has a visible and

definable edge made of landscape timbers, metal edging, vegetation such as low shrubs or decorative grass or similar technique to distinguish the vehicular use area from the front or side portions of the yard.

- (4) Motor vehicle or vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power. This definition includes, but is not limited to, passenger vehicles, motorcycles, golf carts, motor homes, recreational vehicles, four wheelers, water craft, non-motorized campers, or any trailer designed to be pulled by a motor vehicle and/or to carry a watercraft, camper or motor vehicle.
- (5) Owner shall mean that person or those persons on whose property the vehicle is parked or located and/or that person or those persons who are the registered owners of said vehicle(s).
- (6) Park or Parking means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
- (7) Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (8) Principal building or residence means the principal dwelling house or that building which is closest in distance to the public street if there is no principal dwelling house.
- (9) Private property shall mean any real property within the City which is privately owned and which is not public property as defined in this section.
- (10) Surrounding area shall mean any area adjacent to or surrounding a residence. Surrounding area includes, but is not limited to front yards, side yards, and back yards.

(b) ***Parking in Surrounding Areas Prohibited.***

No person shall park any motor vehicle in a surrounding area in a residential district of the City except in a driveway as defined herein. The presence of a motor vehicle on private property other than in a lawfully permitted driveway as referred to above is hereby declared to be a public nuisance which shall be abated as such in accordance with the provisions of this article or as is otherwise provided by law.

(c) **Exceptions.**

The provisions of this section shall not apply to the following:

- (1) Emergency and public service vehicles whose operators are performing services for which they are responsible;

- (2) City officials, employees, and agents of the City who are performing services for which they are responsible;
- (3) Moving vans and moving vehicles whose operators have been engaged to perform and are performing moving services including but not limited to loading and unloading of said vehicles.
- (4) Temporary loading and unloading of passengers, freight or merchandise;
- (5) Parking for isolated, non-recurring gatherings or parties or for visitors. This exception is not intended and shall not be used to provide permanent or semi-permanent parking for extra vehicles.
- (6) When construction, remodeling, maintenance, or repairs are being performed on the property.
- (7) In enclosed building or back yard surrounded by a fence or must not be visible from street or surrounding neighbors.

(d) ***Owner Presumed Operator.***

The owner, tenant, occupant, lessee, or otherwise of the private property on which the vehicle is parked is presumed to be the owner and/or operator of said vehicle. It is further presumed that said owner, tenant, occupant, lessee, or otherwise parked said vehicle or otherwise caused it to be parked in violation of this article.

(e) ***Responsibility for Removal.***

Upon notice and an opportunity to be heard, the owner, tenant, occupant, lessee, or otherwise of the private property on which the vehicle is parked shall be responsible for the motor vehicle's removal. In the event of removal and disposition by the City, the owner, tenant, occupant, lessee, or otherwise of the private property on which the vehicle is parked shall be liable for the expenses incurred by the City.

(f) ***Enforcement and Penalties.***

(1) Notice Required.

- (a) Notice of the nuisance as described in this Section shall be given to the owner, tenant, occupant, lessee, or otherwise of the private property on which the vehicle is parked or upon the actual owner of said motor vehicle (if known) before taking any enforcement action as provided under this Section by the City and/or its agents or assigns.
- (b) Notice to said individual(s) shall be sent by first class mail. In addition, a separate notice shall be posted on and affixed on or near the front or rear windshield of the motor vehicle found to be parked in violation of this ordinance.

- (c) Any notice provided herein shall provide the owner with ten (10) days to cure or abate the nuisance. The notice shall request the removal of said motor vehicle. The notice shall also advise that, upon the failure to comply with the notice to remove, said motor vehicle may be disposed of pursuant to the requirements of this Section. The notice shall also advise that the owner, tenant, occupant, lessee, or otherwise of the private property on which the vehicle is parked may file a written request for hearing before the City Council (or its designee) prior to the expiration of the ten days in order to contest the existence of the nuisance and/or contest ownership of the motor vehicle.

(2) ***Request for Hearing.***

The person(s) to whom the notice is directed, or their duly authorized agents or assigns, may file a written request for hearing before the City Council or its designee prior to the compliance date provided in the Notice to Remove for the purpose of contesting the existence of the nuisance as provided by this Section. If a hearing is requested, then no party shall act upon the abatement of the nuisance until such time as the hearing has been concluded.

(3) ***Citation Issued.***

- (a) If the nuisance described in the notice to remove has not been remedied or abated within the time period set out in the notice to remove, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the nuisance is affirmed by the City Council or its designee, the City or its agents or assigns may issue a citation to the owner of said vehicle or abate the nuisance, or both.
- (b) Upon receiving a citation for a violation of this section, an owner shall be required to appear in court and, upon conviction, shall be guilty of a violation of this Code and shall be punished as set out in Section 1-6 of the Code of Ordinances of the City of Center Point, Alabama. Each calendar day in which a violation hereunder continues or re-occurs shall constitute a separate violation.
- (c) As part of or in lieu of any penalty that may be imposed, an owner may be required by the court to remove the vehicle from the property or otherwise park said vehicle on an improved driveway or parking pad.

(4) ***City's Right to Abate.***

- (a) Whenever the owner fails to cure or abate the nuisance, the City shall have the right of removal, storage and/or disposal, with its own forces or hired subcontractors, of such vehicle to a location of its selection, with the actual expenses thereof being billed to the owner. The City shall have the right to recover the full cost incurred for the removal, storage and disposal

including court costs and attorney fees, plus six percent interest, for the duration of the outstanding debt.

- (b) It shall be unlawful for any person to interfere with, hinder, or refuse to allow such City officials, employees, and agents of the City to enter upon private property for the purpose of removing a vehicle under the provisions of this Section.
- (c) Within forty-eight (48) hours of the removal of said vehicle by the City, the City shall give notice to the owner as defined herein that the vehicle has been impounded and stored for violation of this Section. The notice shall give the location of where the vehicle is stored, and the costs incurred by the City for its removal and storage.
- (d) If the City removes or stores any vehicles in violation of this Section or pursuant to a court order, the City may, after sixty (60) days, sell said vehicle to the highest bidder at a public auction. The City shall provide the owner with at least ten (10) days notice of the proposed sale. If the proceeds of such sale are insufficient to cover the remaining expenses incurred by the City, the owner shall be liable to the City for the balance of the costs. If the proceeds are in excess of costs, the balance shall be paid to the rightful owner, or deposited in the City treasury for the use of the owner.
- (e) The notice of sale shall state 1) that the sale is of a vehicle in the possession of the City and removed from property described by street address pursuant to the provisions of this Section or as the same may be hereinafter amended; 2) a description of the vehicle, including make, model, license number, and any other information which will accurately identify the vehicle; 3) the terms of the sale; and 4) the date, time, and place of the sale.
- (f) The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the City or its agents and assigns shall execute a certificate of sale in duplicate, the original of which is to be given to the purchaser, and the copy thereof is to be filed with the City Clerk. Should the sale for any reason be invalid, the City's liability shall be limited to the return of the purchase price.
- (g) The owner of any vehicle seized under the provisions of this Section may redeem such vehicle at any time after its removal, but prior to the sale thereof, upon proof of ownership and payment to the City Clerk of such sum as the City Clerk may determine and fix for the actual and reasonable expense of removal, and any preliminary sale advertising expenses, plus any and all charges, fees or expenses for removal or storage which now exists or as hereinafter amended for each vehicle or boat redeemed.
- (h) Upon the failure of the owner of property on which a vehicle has been removed by the City to pay the unrecovered expenses incurred by the City

in such removal, a lien shall be placed upon the property for the amount of such expenses.

- (i) In addition to the foregoing remedies of the City, the City may also choose to file a complaint in a court of competent jurisdiction, seeking to abate the nuisance(s).

(5) ***Limited Right of Entry.***

The City, its agents, and assigns shall have the limited right to enter upon private property to reasonably ascertain the violations of any terms, conditions or provisions of this Section, which right of entry shall include the right to gather information to properly identify the owner of the vehicle alleged to be in violation of this Section and/or the owner, tenant, occupant, lessee, or otherwise of the private property on which the vehicle is parked.

(6) ***Severability and Effective Date.***

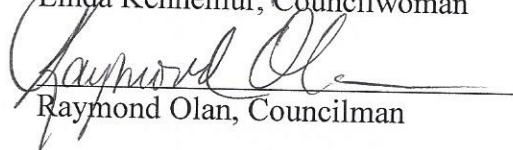
- (a) If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.
- (b) This ordinance shall become effective on March 5, 2015.

ADOPTED this 26th day of February, 2015.


Roger A. Barlow, Council President



Danny King, Councilman



Linda Kennemur, Councilwoman


Raymond Olan, Councilman

Terry Leesburg, Councilman

APPROVED this 27th day of February, 2015.


Thomas E. Henderson, Mayor

ATTESTED: 
Tammy Graham, City Clerk