

# **ORDINANCE NO. 2011-04-19**

The City of Payne Springs sets forth its rules and guidelines for its City Impound Lot.

WHEREAS, the City of Payne Springs (City) which is located in Henderson County is a type A General Law municipality under the laws of the State of Texas, and

WHEREAS, the City Council has previously enacted Ordinance **2009-09-15** establishing an Official City of Payne Springs Impound Lot, and

WHEREAS, the City Council must establish the rules and guidelines for the administration of the City Impound Lot.

The City herein sets forth its rules and guidelines for the City Impound Lot:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PAYNE SPRINGS, TEXAS.

## **SECTION 1. AUTHORITY TO REMOVE VEHICLES; REDEMPTION; FEES.**

- (A) A police officer is authorized to remove or cause the removal of a vehicle or other property of any description from a street to a place designated by the chief of police when:
- (1) The vehicle or property is left unattended upon a bridge or viaduct;
  - (2) The vehicle is illegally parked so as to block the entrance to any private driveway;
  - (3) The vehicle is found upon a street and a report has been made that the vehicle has been stolen or a complaint has been filed and a warrant issued charging that the vehicle has been unlawfully taken from the owner;
  - (4) The officer has reasonable grounds to believe that the vehicle has been abandoned;
  - (5) A vehicle upon a street is so disabled that its normal operation is impossible or impractical and the person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such an extent as to be unable to provide for its removal or custody, or are not in the immediate vicinity of the disabled vehicle;
  - (6) An officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by law required to take the person arrested immediately before a magistrate;
  - (7) The vehicle is standing, parked, or stopped in any portion of a street, and the officer has reason to believe that the vehicle constitutes a hazard or interferes with the normal function of a governmental agency or that the safety of the vehicle is imperiled;

- (8) The vehicle is in an accident and the vehicle's owner or operator fails to show evidence of financial responsibility as required under Chapter 601 of the Texas Transportation Code;
- (9) The vehicle is stopped by a police officer for an alleged violation of a city or state traffic law or other law applicable to the operation of a vehicle on the roadway and the vehicle's owners or operator fails to show evidence of financial responsibility as required under Chapter 601 of the Texas Transportation Code;
  - (a) A vehicle removed and towed under this section must be kept at the place designated by the chief of police until application for redemption is made by the owner or the owner's authorized agent, who will be entitled to possession of the vehicle upon payment of cost of towing, notification, impoundment, and storage. The chief of police shall charge fees for storage of vehicles at city pound locations in accordance with the following regulations:
    - (1) The storage fee is \$25.00 for each day or portion of a day that a vehicle not longer than 25 feet is stored and \$35.00 for each day or portion of a day that a vehicle is longer than 25 feet is stored.
    - (2) An impoundment fee of \$20.00, in addition to applicable towage, notification, and storage fees, will be charged for a vehicle that has been removed and towed to a city pound location.
    - (3) A notification fee of \$50.00 for first notice and \$25.00 for second notice in addition to applicable towage, impoundment, and storage fees will be charged for a vehicle that has been removed and towed to a city pound location.
  - (b) The chief of police or a designated representative may release a vehicle without payment of towage, notification, impoundment, or storage fees under the following circumstances:
    - (1) A vehicle was taken into protective custody when the incident did not involve an arrest, violation, or automobile accident;
    - (2) A vehicle is owned by or belongs to an individual who is not a citizen of the United States, who does not permanently reside in the United States, and who is entitled to diplomatic immunity;
    - (3) Subsequent investigation results in a determination that there was no violation of this code or the Texas Motor Vehicle Laws or that the arrested person did not commit a criminal offense; or
    - (4) A vehicle is owned by or belongs to the victim of a violent crime and was taken into custody for evidentiary purposes.
  - (c) If a vehicle was towed and stored for an evidentiary or examination purpose, the chief of police or a designated representative shall release the vehicle without payment of towage and storage fees when required to do so under Article 18.23 of the Texas Code of Criminal Procedure, as amended.

- (d) A person commits an offense if he/she removes or attempts to remove a vehicle from a city pound location without first paying the towage, notification, impoundment, and storage fees that have accrued on the vehicle.
- (e) As a consequence of the fees to be charges for vehicles stored at the city pound locations and for purposes of state law, the city council hereby designates all city pound locations as storage facilities operated for commercial purposes.”

## **SECTION 2. VEHICLES AND PROPERTY WHICH ARE UNCLAIMED**

- (a) Vehicles which are unclaimed by the owner are considered to be “abandoned” pursuant to Texas Transportation Code Section 683.034.
- (b) Vehicles which are unclaimed by the owner after the 71<sup>st</sup> day are considered to be “abandoned” pursuant to Texas Transportation Code Section and;
- (c) In the event that the owner does not claim the vehicle, the vehicle may be sold at a public auction or the Police Department may use the vehicle for Police Department purpose.
- (d) Any individual and /or entity that purchases a vehicle at public auction takes title free and clear of all liens and claims of ownership and shall receive a sales receipt from the Police Department.
- (e) The Police Department and City is entitled to reimbursement from the proceeds of any sale for all costs incurred in the towing and storage of the vehicle;
- (f) After deducting the reimbursable costs the City, the proceeds of the sale must be held for 90 days for the owner or any lien holder of the vehicle;
- (g) In the event that the proceeds are not claimed, an account shall be set up to deposit the remaining proceeds to assist in the auction, towing, storage, and notice and publication fees resulting from the towing and storage of other vehicles;
- (h) Once the funds in this account reach \$1,000.00, any excess funds may be transferred to the City’s general fund account to be used by the Police Department.

## **SECTION 3. AUCTION OF VEHICLES AND PROPERTY WHICH ARE UNCLAIMED**

- (a) The City shall place an ad in the City’s official newspaper at least 10 days prior to auction date.
- (b) Silent bids will be taken on all vehicles and property auctioned.
- (c) Bid winners will be contacted by the Chief of Police or a designated representative;
- (d) And will be given five business days to pay and pick up the vehicle/ property

**SECTION 4. PENALTIES OF ORDINANCE**

(a) That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.00.

**SECTION 5. SEVERABILTY**

(a) In the event that any section of this ordinance be deemed contrary to State or Federal Law, That Section and that Section only will be null and void.

**SECTION 6. EFFECTIVE DATE**

(a) That this ordinance will take effect on April 19, 2011, and it is accordingly ordained.

APPROVED:

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Mayor, Rodney Renberg

ATTEST:

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City Secretary, Karen Juica