

**ORDINANCE NO. 2010- 3**

**An ordinance revising the following sections of Chapter 22 of the Victoria City Code to update such sections; providing for the repeal of all ordinances or parts of ordinances in conflict herewith; providing for severability; providing for savings; providing for codification and publication; and declaring an effective date.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS THAT:

1.

The following Sections of Chapter 22 of the Victoria City Code are amended to read as follows:

**Sec. 22-1. Definitions.**

Words used in this chapter which are defined in the ~~state Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~ Vernon's Texas Code Annotated, Transportation Code (Vernon 2009) shall have the meanings ascribed to them by such statutes.

**Sec. 22-2. Adoption of state laws.**

The provisions of all state laws governing the operation and movement of vehicles and pedestrians, including but not limited to the ~~Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~ V.T.C.A., Transportation Code (Vernon 2009) shall apply within the city.

**Sec. 22-19. Oversize vehicles; police escort.**

(a) A police department escort may be requested for any vehicle which exceeds the width, height, or length limitations established by V.T.C.A., Transportation Code § 621.001 et seq. (Vernon 2009) ~~Article 6701d-11, Vernon's Texas Civil Statutes~~, to be operated upon public streets within the city, in accordance with the requirements of this section.

(b) Such escort shall be requested on a form prepared by the police department at least twenty-four (24) hours in advance of the movement of the vehicle within the city. Such request shall be accompanied by a fee prescribed from time to time by separate ordinance by the city council, copies of which are on file in the city secretary's office.

**Sec. 22-74. Removal of vehicles from public streets.**

(a) Any peace officer is hereby authorized to remove or cause the removal of a vehicle from a public street to an approved storage yard under any of the circumstances hereinafter enumerated:

- 1.) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;
- 2.) When any vehicle is illegally parked so as to block the entrance to any private driveway and it is impracticable to move such vehicle from in front of the driveway to another point on the street;
- 3.) When any vehicle is found upon a public street and a report has previously been made that such vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that such vehicle has been embezzled;
- 4.) When any such officer has reasonable grounds to believe that any vehicle has been abandoned;
- 5.) When a vehicle upon a public 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.) When an officer arrests any person driving or in control of the vehicle for an alleged offense and such officer is required by law to take the person arrested immediately before a magistrate;
- 7.) When a vehicle is parked on a public street in an area marked by signs or markings indicating a no parking zone.
- (b) Any peace officer is hereby authorized to remove or cause the removal of any vehicle parked or standing in or on any portion of a public street when, in the opinion of the peace officer, the vehicle constitutes a hazard, or interferes with a normal function of a governmental agency, or by reason of any catastrophe, emergency or unusual circumstances, the safety of said vehicle is imperiled.
- (c) Once a vehicle is removed from a public street, the city shall give notice of the removal to the registered owner and all lienholders of record by telephone, in person, or according to the notice provisions of ~~Vernon's Ann. Civ. St. art. 4477-9a, § 5.04~~ V.T.C.A., Transportation Code § 683.012 (Vernon 2009). The notice shall indicate the location of the impounded vehicle, the reason for the removal, the means of securing its release, and the fact that the vehicle will be subject to sale at public auction if it is not reclaimed within twenty (20) days of the date notice is given.
- (d) An owner or registered lienholder of an impounded vehicle may reclaim the vehicle upon payment of all towing, preservation, and storage charges resulting from the removal of the vehicle, or upon payment of garagekeeper's charges if notice is given under ~~Vernon's Ann. Civ. St. art. 4477-9a § 5.04~~ V.T.C.A., Transportation Code § 683.012 (Vernon 2009).
- (e) The owner or lien holder of an impounded vehicle may obtain immediate possession of the vehicle by requesting a hearing under subsection (g) below and posting an appearance bond in the amount of the charges for the towing, preservation, and storage of the vehicle.
- (f) The fees and rate schedule adopted pursuant to City Code Section 23-67 shall govern the maximum rates charged for the towing, preservation, and storage of a vehicle.
- (g) A post-tow hearing shall be made available upon the owner or lienholder of a vehicle presenting a signed written request delivered to the chief of police or his designated representative. The request must include the year, make, model, and vehicle identification number. The hearing shall be conducted within a reasonable period of time by the chief of police or his designated representative. The scope of the hearing shall be limited to a determination of whether circumstances existed under subsections (a) or (b) of this section authorizing the removal, and whether the fees charged are proper under subsections (d), (e) and (f) above. If at the conclusion of the hearing, it is determined that the vehicle was removed without such authorization, the vehicle shall be returned to the owner or lienholder without cost or unnecessary delay.
- (h) The provisions of this section pertaining to reclaiming an impounded vehicle shall not apply to vehicles impounded for evidentiary purposes for possible criminal prosecution or to vehicles subject to forfeiture under applicable laws.

#### Sec. 22-75 Presumption

As per V.T.C.A., Transportation Code §545.308, in a prosecution for an offense under this section involving the stopping, standing, or parking of an unattended motor vehicle, it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred.

2.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

3.

If any portion of this ordinance is held unconstitutional by a Court of competent jurisdiction, the remaining provisions hereof shall nevertheless be valid, the same as if the portion of portions held unconstitutional had not been adopted.

4.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined as provided in §1-8 of the City of Victoria Code of Ordinances.

5.

The City Secretary shall publish the caption or a descriptive title of this ordinance one time within ten (10) days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II §10 of the City Charter.

6.

The provisions of this ordinance shall become effective ten (10) days after final passage and approval by the City Council of the City of Victoria, Texas.

7.

PASSED FIRST READING, this the 2<sup>nd</sup> day of February, 2010.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

PASSED SECOND READING, this the 16TH day of FEBRUARY, 2010.

AYES: 5

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 16TH day of FEBRUARY, 2010.

AYES: 5

NAYS: 0

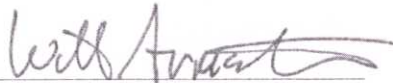
ABSTENTIONS: 0

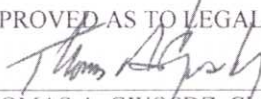
APPROVED AND ADOPTED, this the 16TH day of FEBRUARY, 2010.



ATTEST:

  
SCARLET SWOBODA, City Secretary

  
WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:  
  
THOMAS A. GWOSDZ, City Attorney

Distribution: Legal Department  
City Secretary's Office  
Municipal Court  
Police Department

Copies Sent: FEBRUARY 17, 2010