

ORDINANCE NO. 1749

CITY OF LEXINGTON, NEBRASKA

Effective March 28, 1984

ORDINANCE NO. 1749

AN ORDINANCE TO PROVIDE FOR REMOVAL AND IMPOUNDMENT OF ILLEGALLY PARKED VEHICLES AND VEHICLES WITH UNPAID PARKING TICKETS; TO AMEND SECTION 16-13 OF THE LEXINGTON CITY CODE; TO REPEAL ORIGINAL SECTIONS 16-13 AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA, AS FOLLOWS:

Section 1. That Section 16-13 of the Lexington City Code is hereby amended to read as follows:

Section 16-13. Removal of vehicles from streets.

It is hereby declared necessary and for the best interest, health, safety and welfare of the city that the city manager have general power, in addition to other authorizations granted in this chapter, to order the removal of all vehicles from parking areas in the city for the purpose of maintaining, repairing, cleaning, controlling traffic and parking on such streets. The city manager may issue such order personally or through one of the regular police officers to the owner or the person in charge of the vehicle or may cause a notice of the order to be placed on the vehicle for at least twelve (12) hours prior to the removal of the vehicle. Such notice shall be placed on the steering wheel if practical and under the windshield wiper of the vehicle. Such notice shall constitute sufficient and reasonable notice to the owner of, or all persons in charge of the vehicle. Violation of the order shall constitute violation of this section and the declared powers of the city. The city manager upon finding a vehicle parked or standing in violation of the order after notice as provided herein or upon finding a vehicle parked in violation

of this Code or other ordinances of the city is hereby authorized to remove the vehicle from the streets. The provisions of this section shall in no way be construed to detract from the city's inherent powers to remove a vehicle or any object animate or inanimate from the streets without notice of any kind for reason affecting the health, safety and general welfare of the city and its citizens, if the circumstances or the urgency of the situation reasonably require exercise of such power.

Section 2. Removal and impoundment for unpaid parking violations.

Any vehicle having against it five (5) or more unpaid summonses or other process, issued within a twelve (12) month period, charging that such vehicle was parked, stopped or standing in violation of any ordinance of the City of Lexington, shall be deemed a public nuisance and the police department and any other agent of the City assigned to traffic duty are hereby authorized to remove, or cause the vehicle to be removed, at the sole cost and expense of the owner of the vehicle. Such police authority shall have the power and is hereby authorized to remove the vehicle by either private or governmental equipment to the City impoundment lot, or elsewhere, as he may deem advisable.

Section 3. Notice of impoundment.

Whenever the police department has impounded a vehicle described above, a notice of such removal and the storage place of such vehicle shall be mailed to the last registered owner of such vehicle, if the name and address of such owner can be ascertained with reasonable diligence. Such notice shall state that if the owner fails to reclaim such vehicle within thirty (30) days from the date of the mailing, title to such vehicle will vest in the City of Lexington and such vehicle will be sold at public auction to be held not sooner than ten (10) days after the expiration of the thirty (30) day period contained in the notice.

Section 4. Owner responsibility.

The registered owner of a vehicle which has been impounded pursuant to the authority herein shall be presumed to be the owner at the time the removal order, violation notice, or outstanding parking summonses were in fact issued, and shall be severally responsible for the offenses and the impoundment, except where the use of the vehicle was secured by the operator without the owner's consent. Upon receipt of notice of impoundment, the owner shall be entitled to a hearing before the city manager to determine such responsibility. Such hearing, if requested, shall be held as soon as reasonably possible, and not later than the next full business day after hearing is requested.

Section 5. Records.

It shall be the duty of the police department to provide for the safekeeping of any impounded vehicle until such vehicle shall have been repossessed by the owner or person legally entitled to possession thereof or otherwise disposed of as provided in this ordinance. The police department shall cause to be kept an accurate record of the description of such vehicle, including the name of the officer from whom such a vehicle was received, the officer employed to tow or have delivered the same to said impoundment or authorized garage, the date in time when received, the place where found, seized or taken possession of, the make and color of car, style or body, year built, serial number, and state license number, if any, and general description of condition, the name and address of the person redeeming said vehicle, the date of redemption, and the manner and date of disposal of said vehicle in case the same shall not be redeemed, together with cost of outstanding summonses and the towing and storage charges. This record shall be in the form prescribed by the chief of police.

Section 6. Release of vehicle.

Vehicles impounded pursuant to the authority herein will be released to their lawful owner or other person entitled to possession upon showing adequate evidence

of a right to its possession and paying the payment of all accrued fines and costs for each outstanding unpaid summons, and, in addition thereto, the charges for towing and storage. The release shall be signed by an authorized officer.

Section 7. Sale of vehicle.

Whenever any vehicle so impounded shall remain unclaimed by the owner or other person legally entitled to possession thereof for a period of thirty (30) days from the date notice to owner was mailed, it shall be the duty of the police department to sell such vehicle. Such sale shall be at public auction to the highest bidder for cash, and the time and place of such sale to be published at least once in a newspaper of general circulation in the City, not less than ten (10) days nor more than fifteen (15) days prior to such sale. Said notice shall contain a full description of the vehicle to be sold and the time and place of sale; provided, that any such vehicle not sold at the first sale may be offered for sale and sold at any subsequent sale without further notice or publication. The proceeds of such sale shall first be applied to all reasonable charges and expenses incurred by the police department, including the cost of receiving, towing, storage, preparing and giving notices, advertising for sale; and the balance of such proceeds, after paying all liens shall be held by the City Treasurer in compliance with the abandoned motor vehicle law of the State of Nebraska, Section 60-1901 ff. Whenever any such vehicle shall not be purchased at any such auction sale, any such vehicle may be given to the use of any department of the City or other government agency desiring the same, or such vehicle may be sold for salvage. No member of the police department, nor any other employee of the City, directly or indirectly, shall purchase or participate in the bidding for, or purchase of, any vehicle offered for sale as aforesaid. If an impounded vehicle shall be deemed by the Chief of Police to be of less than One Hundred Dollars (\$100.00) value, notice of its removal shall be mailed to any


owner whose name and address can be ascertained with reasonable diligence, which notice shall contain a statement that the vehicle is deemed to be of no value or of insufficient value to warrant storage and sale, and that it is the intention to dispose of or destroy such vehicle if not reclaimed within five (5) days. Such vehicle as above provided shall thereupon be conclusively deemed of no value and to be abandoned property, and such vehicle shall be disposed of as determined by the city manager.

Section 8. That original Section 16-13 of the Lexington City Code, and all other ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 9. That this ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this 28th day of February, 1984.

CITY OF LEXINGTON, NEBRASKA



Mayor

ATTEST:



City Clerk



Effective Date March 29, 1984