

VILLAGE OF LOS RANCHOS
de ALBUQUERQUE
Ordinance Number 175

VEHICLES ABANDONED
OR
DISPLAYED FOR SALE ILLEGALLY

BE IT ORDAINED BY THE BOARD OF TRUSTEES, THE GOVERNING BODY OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE THAT:

TITLE

This Ordinance shall be known and cited as the "Vehicles Abandoned or Displayed for Sale Illegally" of the Village of Los Ranchos de Albuquerque, New Mexico, (hereinafter referred to as the "ordinance.")

Section 1. AUTHORITY

This Chapter is enacted pursuant to NMSA 3-17-1 which provides that municipalities are granted those powers necessary for the safety, preserving the health, promoting the prosperity and improving the morals, order, comfort and convenience of the municipality and its inhabitants and that the Governing Body may adopt ordinances for this purpose.

Section 2. FINDINGS

The Governing Body of the Village of Los Ranchos de Albuquerque finds that sales of motor vehicles between private individuals within the Village frequently occur under circumstances of the buyer not being able to determine the validity of the title held by the seller; that frequently such titles are void; encumbered by liens, or otherwise invalid, particularly of out-of-state registered vehicles brought into the Village for sale; that such sales often lead to avoidance of full payment of the state excise tax. The Board of Trustees further finds that undeveloped and vacant land along major thoroughfares is frequently used by individuals as de facto used car lots displaying vehicles for sale; that such places frequently used by those sellers of vehicles with defective titles to unwary buyers; that such places are also frequently used for abandonment of vehicles; that such use of undeveloped and vacant property is often in violation of the Village Zoning Code, is unsightly, creates dust problems, constitutes a traffic hazard, and is a nuisance to neighboring developed properties.

Section 3. DISPLAY AND SALE OF MOTOR VEHICLES

Any vehicle may be displayed for sale and actually sold by a private individual not a dealer as described in Section 66-1-4.4(B)(3) NMSA 1978 only at the current home or work address of the

buyer or seller, except that a vehicle may be displayed for sale at another location which satisfies the provisions of the zoning code, if permission is obtained from the owner or lessee of such property. The owner of any vehicle cited in violation of this section or who has a criminal complaint filed against him or her and who claims to fit within this exception shall bear the burden of so proving. This section is not intended to prohibit the routine use of a vehicle to which a "for sale" sign is affixed. Any person who takes motor vehicles on consignment for sale must have ownership of the vehicle assigned to such person upon taking possession of any vehicle for such purpose. Any such person must also be licensed as a dealer and bonded with the Motor Vehicle Division of the New Mexico Transportation Department. Motor vehicle shall mean motor vehicle as defined in Section 66-1-4.11(I) NMSA 1978. No person shall display a vehicle for sale in violation of this section with the license plate removed or concealed and/or the vehicle identification number concealed.

Section 4. ABANDONMENT OF MOTOR VEHICLES

For purposes of this section, a vehicle is abandoned if parked on or along any street, alley or public way and displays no license plates or other signs of registration. A vehicle may also be deemed to be abandoned if unattended on or along any street, alley or public way with expired registration and is clearly inoperable.

Section 5. TOWING

(a) A vehicle abandoned or displayed for sale in a location in violation of this Chapter may be towed no sooner than 24 hours after a warning sticker is placed on the vehicle. Members of the sheriff's department are authorized to remove a vehicle from a vacant lot to the nearest garage or other place of safety or to a garage designated or maintained by the sheriff's department or otherwise maintained by the county.

(b) The warning sticker shall contain the following information:

- (1) The date and time the warning sticker was affixed to the vehicle;
- (2) A statement that pursuant to this Chapter, if the vehicle is not removed within 24 hours of the time the sticker is affixed, it may be taken into custody and stored at the owner's expense;
- (3) A statement that, if the vehicle is towed pursuant to this Chapter, the owner will have the opportunity to challenge said action at a hearing, and a written notice of the procedure for said hearing will be mailed to the owner's address as provided by the State Motor Vehicle Division files or the files of the appropriate motor vehicle regulatory agency of another state;
- (4) The location and telephone number where additional information may be obtained; and
- (5) The identity of the affixing person.

(c) After a vehicle is taken into custody and stored pursuant to this section, the affixing department shall initiate notification and hearing procedures as set forth herein, except that the decision of the hearing officer from the zoning department as set forth herein shall be limited to whether the vehicle was lawfully impounded for violation of this Chapter. If it is determined at the hearing that the location and status of the vehicle was not in violation of this Chapter, the owner of such vehicle shall not be liable for any expenses incurred as a result of the taking and storage of such vehicle, and the department which authorized the taking and storage of such vehicle shall be liable for the expenses, or the department which authorized the taking and storage of such vehicle shall be liable to the owner for the amount paid by the owner to remove said vehicle from impound.

Section 6. PENALTIES

(a) General penalty. Unless another penalty is expressly provided in this Chapter or as otherwise provided by law, every person convicted of, or pleading guilty or no contest to, a violation of any section of this Chapter shall be guilty of a petty misdemeanor and shall be punished by a fine of not more than \$300.00 or by imprisonment for not more than 90 days or by both such fine and imprisonment.

(b) Penalties for violation of section 3 Display and sale of motor vehicles. Any person who violation the provisions of section 3 shall pay a fine of \$50.00. If the owner of the vehicle has violated the prohibition against concealment or removal of the license plate and/or concealment of the vehicle identification number, or, within a three month period, a vehicle has been cited by criminal complaint or citation three or more times for this offense, the vehicle may be towed, taken into custody and stored. The department conducting the tow shall initiate notification and hearing procedures as set forth in section 4 et seq., except that the decision of a hearing officer from the zoning department as set forth therein shall be limited to whether the vehicle was lawfully impounded for violation of this Chapter. If it is determined at the hearing that the location and status of the vehicle was not in violation of this Chapter, the owner of such vehicle shall not be liable for any expenses incurred as a result of the taking and storage of such vehicle, and the department which authorized the taking and storage of such vehicle shall be liable for the expenses, or the department which authorized the taking and storage of such vehicle shall be liable to the owner for the amount paid by the owner to remove said vehicle from impound.

(c) Penalties for late payment of fines. Fines for any parking violation, including section 3 Display and sale of motor vehicles if not paid within five days of the citation shall be two times the amount of the fine, and if not paid within 15 days of the citation shall be three times the amount of the fine, unless a person issued a citation has initiated court proceedings to answer the charges within five days of the issuance of the citation. The above fines do not include the administrative cost assessment authorized by law.

Section 7. ENFORCEMENT

The Bernalillo County Sheriff's Department and the Village Zoning Enforcement Officials are responsible for enforcement of this Chapter. The Planning and Zoning Director shall provide a procedure and hearing officer to hear towing appeals. The Planning and Zoning Director may delegate authority to place warning signs on abandoned vehicles to Public Works employees of the Village.

Section 8. SEVERABILITY CLAUSE

If any section, paragraph, sentence, clause, word or phrase of this Chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Chapter. The Board of Trustees of the Village of Los Ranchos hereby declares that it would have passed this Chapter and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE

This ordinance shall be incorporated in and compiled as part of the Municipal, Code of the Village of Los Ranchos de Albuquerque.

APPROVED AND ADOPTED by the Governing Body of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2003.

John H. Hooker, Mayor

ATTEST:

Annabelle Silvas, CMC
Village Clerk