

ORDINANCE NO. 2002-12

AN ORDINANCE MAKING IT UNLAWFUL TO LEAVE OR PERMIT TO REMAIN UPON ANY PRIVATE OR PUBLIC PROPERTY WITHIN THE CITY OF _____, TEXAS, ANY JUNKED VEHICLE, OR PORTIONS THEREOF, DECLARING THE LEAVING OR PERMITTING TO REMAIN, OF ANY JUNKED MOTOR VEHICLE, OR PART OR PORTION THEREOF, UPON PUBLIC OR PRIVATE PROPERTY IN THE CITY OF _____, TEXAS, (EXCEPT AS PROVIDED HEREIN) TO BE UNLAWFUL AND ESTABLISHING PROCEDURES FOR ABATEMENT AND REMOVAL OF JUNKED VEHICLES OR PARTS THEREOF, AND PUBLIC NUISANCES, FROM PRIVATE PROPERTY OR PUBLIC PROPERTY, PROVIDING THAT NOTICE BE GIVEN; PROVIDING A PENALTY; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, the City Council of the City of _____, Texas, finds a large number of junked vehicles, as that term is defined therein, are from time to time left in places where they are visible from a public place or public right-of-way, that said junked vehicles create fire hazards and that the same constitutes an attractive nuisance, creating a hazard to the health and safety of minors, and the same are detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City of _____, Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of _____, Texas:

SECTION 1.0 SHORT TITLE

This Ordinance may be cited as "Junked Vehicle Ordinance".

SECTION 2.0 DEFINITIONS

The following terms whenever used or referred to in this Ordinance shall have the same respective meaning unless a different meaning clearly appears for the context:

1. "City" shall mean the City of _____, Texas.
2. "Police Department" shall mean the Police Department of the City.
3. "Administrator" shall mean a regularly salaried, full-time employee of the City of _____; designated by the City Manager or his designee as the individual tasked with the enforcement of this ordinance.
4. "Demolisher" means any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles.

5. "Junked Vehicle" means any motor vehicle as defined in Vernon's Texas Code Annotated, Transportation Code, Section 683.071 and an amendment, which vehicle is self-propelled and:

- a. does not have lawfully attached to it:
 - i. an unexpired license plate; or
 - ii. a valid motor vehicle inspection certificate; and
- b. is wrecked, dismantled or partially dismantled, or discarded; or
- c. is inoperable and has remained inoperable for more than:
 - i. 72 consecutive hours, if the vehicle is on public property; or
 - ii. 30 consecutive days, if the vehicle is on private property.

The definition of "Junked Vehicle" as written in this Ordinance is intended to be and remain the same as the definition written in Vernon's Texas Code Annotated, Texas Transportation Code, Section 683.071. An amendment to the definition of "Junked Vehicle" in the Texas Transportation Code, Section 683.071 as now written or as hereafter changed shall become the definition of "Junked Vehicle" in this Ordinance upon the effective date of the definition change made in the Texas Transportation Code.

SECTION 3.0 JUNKED VEHICLES DECLARED A PUBLIC NUISANCE

Junked Vehicles which are located in any place where they are visible from a public place or public right-of-way, are detrimental to the safety and welfare of the general public, do tend to reduce the value of private property, do invite vandalism, do create fire hazards, do constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the State, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the State of Texas, and such vehicles are, therefore, declared to be a public nuisance.

SECTION 4.0 MAKING IT UNLAWFUL TO CREATE OR TO MAINTAIN SUCH NUISANCE

It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided), within the City of _____, Texas, any junked vehicle or parts or portion thereof.

SECTION 5.0 NOTICE

- A. Upon determination by the Administrator of this ordinance, that a nuisance, as defined herein, exists in the City of _____, the Administrator shall give or cause to be given to the person maintaining or suspected of maintaining such nuisance, in writing, a ten (10) day notice, stating the nature of the public nuisance and that it must be removed and abated within ten (10) days; and further that a request for a hearing must be made before the expiration of said ten (10) day period, such notice to be mailed, by certified or registered mail, with a five (5) day return requested to:
1. the last known registered owner of the nuisance;
 2. each lienholder of record of the nuisance; and
 3. the owner or occupant of:
 - a. the property on which the nuisance is located; or
 - b. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- B. The notice must state that:
1. the nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was mailed; and
 2. any request for a hearing must be made before that ten (10) day period expires.
- C. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.
- D. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11th) day after the date of the return.
- E. A public hearing shall be held prior to the removal of the vehicle or the part thereof as a public nuisance, the same should be held before the Municipal Judge of the City of _____, when such hearing is requested by the owner or occupant of the premises on which said vehicle is located, within ten (10) days after service of notice to abate the nuisance. Should the owner or occupant of the premises on which said vehicle is located fail to request a hearing, a public hearing shall be conducted in absentia before the Municipal Court Judge who shall determine if the vehicle or vehicle parts is a nuisance.

At a hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicles:

1. description;
2. vehicle identification number; and
3. license plate number.

SECTION 6. ORDER BY MUNICIPAL JUDGE

After the hearing is held by the Judge of the Municipal Court of the City of _____ as herein provided, if said Municipal Judge finds that such a nuisance as herein defined exists, he shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within ten (10) days after said order is given to such owner or

occupant of the premises on which said vehicle is located.

If the owner or occupant of the premises on which said vehicle is located fails to attend the public hearing where the order is issued, a police officer shall deliver or cause to be delivered said order to the last known address of the owner or occupant of the premises on which said vehicle is located.

It shall be unlawful and a violation of this Ordinance for any such person to whom such order is given to fail or refuse to comply therewith to remove such junked vehicle within the time provided by said order.

SECTION 7.0 DUTY OF OWNER OR OCCUPANT OF THE PREMISES

In the event the owner or occupant of the premises does not request a hearing, as hereinabove provided, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten (10) days after the date of the receipt of such notice.

SECTION 8.0 VEHICLES NOT TO BE MADE OPERABLE

After a vehicle has been removed in accordance with or under the terms and provisions of this Ordinance, it shall not be reconstructed or made operable.

SECTION 9.0 NOTICE TO TEXAS HIGHWAY DEPARTMENT

Notice shall be given to the Texas Highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.

SECTION 10.0 RELOCATION

The relocation of a Junked Vehicle that is a public nuisance to another location in the City, after a proceeding for the abatement and removal of the public nuisance has commenced, has no effect on the proceeding if the Junked vehicle constitutes a public nuisance at the new location.

SECTION 11.0 WHERE ARTICLE DOES NOT APPLY

This Ordinance shall not apply to a vehicle or vehicle part:

1. that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
2. that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junk yard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - a. maintained in an orderly manner;
 - b. not a health hazard; and
 - c. screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

As used in this Ordinance:

1. "Antique Vehicle" means a passenger car or truck that is at least 25 years old.

2. "Motor vehicle collector" means a person who:
 - a. owns one or more antique or special vehicles; and
 - b. acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

3. "Special Interest vehicle" means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

SECTION 12.0 ADMINISTRATION OF THIS ORDINANCE

The administration of this Ordinance shall be by regularly salaried, full-time employees of the City of ; except that the removal of vehicles or parts thereof from property may be by any other duly authorized person.

SECTION 13.0 REMOVAL OF VEHICLE

~~Within ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the last known owner or occupant of the premises on which said vehicle is located, the Administrator of this ordinance or members of the Police Department of the City of ; acting under the direction of the Chief of Police, may, if said nuisance has not been abated, petition the Municipal Court Judge for an order to remove or cause to be removed the vehicle which was the subject of such notice to a scrap yard, a motor vehicle demolisher, or a suitable site operated by the City. The person authorized to administer the procedures may only remove or cause to be removed vehicles after an order is received from the Municipal Court Judge. A person authorized to administer the procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance and to remove or direct the removal of the nuisance.~~

SECTION 14.0 SALE OR DISPOSAL OF VEHICLES

Any junked vehicle that has been removed may be disposed of by sale to a demolisher for the highest bid or offer received therefore or be processed as scrap or salvage by demolisher or be demolished.

SECTION 15.0 PENALTY

Any person who shall violate the terms and provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not less than One Dollar (\$1.00) and not more than Two Hundred Dollars (\$200.00) and each and every day this Ordinance is violated shall constitute a separate offense. The Court hearing a case under this Ordinance shall order abatement and removal of the nuisance on conviction.

SECTION 16.0 SAVINGS CLAUSE

If any article, paragraph or part of a paragraph of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other article, paragraph or part of a paragraph of this Ordinance which shall remain in full force and effect.

SECTION 17.0 INTRODUCED

In accordance with Article VIII, Section 1, of the City Charter, Ordinance No. 2002-12 was introduced before the Taylor City Council on the 23rd day of April, 2002.

PASSED, APPROVED and ADOPTED on the 9th day of May, 2002.

City of _____, Texas

ATTEST:

, City Clerk

APPROVED AS TO FORM:

I, City Attorney

JUNKED VEHICLE ABATEMENT CHECKLIST

Date of Violation: _____

Address/Location of Violation:

Description of Vehicle (Attach Dated Photos):

Make: _____ **Model:** _____ **Year:** _____

Color: _____ **Lic. Plate:** _____ **VIN#:** _____

**Additional Descriptive
Remarks:**

Registered Owner of Vehicle (Attach Registration Printout/Info.):

Name: _____

Address:

**Owner/Occupant of Property Where Violation Located or Adjacent
Property if Violation Located on Public Right-Of-Way (attach copy
of CAD documents, tax rolls, utility records, etc.):**

Name: _____

Address:

Lienholder of Record on Vehicle (if any):

Name: _____

Address:

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PROCEDURE:

1. Courtesy Letter.

- Courtesy letter mailed to Owner/Occupant of property where junked vehicle is located or adjacent property if violation is on public right-of-way. (Attach Copy of Letter).
Date Mailed: _____
- Follow-up: Violation Corrected/abated within 15 days of courtesy letter - No further action necessary. Date violation checked: _____

2. Official Notice of Junked Vehicle.

- Certified Letters (5 day return requested) sent to (must be sent to all of the following, if exist):
 - Last known registered owner of vehicle.
 - Each lienholder of record on vehicle.
 - Owner/Occupant of Property on Which Junked Vehicle is located or Adjacent Property if Violation on Public Right-Of-Way.

Date letters sent: _____

Date received (signed for) by Addressee: _____

Date of return (undelivered) _____

If post office address of last known registered owner of vehicle is unknown:

- Notice Placed on Vehicle - Date: _____
- Owner located-Notice Hand Delivered-Date: _____

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The above-described vehicle is a "junked vehicle" because the offending vehicle is inoperable, and (check all that apply):

- No valid License Plates Attached.
Date of expiration: _____
- No valid Inspection Sticker Attached.
Date of Expiration: _____
- Wrecked; Dismantled or Partially Dismantled; or Discarded - Comments: _____
- Remained Inoperable for more than 45 Consecutive Days.
From _____ to _____.

Is vehicle visible from a public place or public right-of-way?

- Yes No

If yes, description of public place/public right-of-way:

Additional Comments/Observations:

3. Notice Affixed to Vehicle.

Green tag affixed to Vehicle - Date Affixed: _____

4. File Sworn Complaint With Municipal Court.

File sworn complaint with municipal court on date Notices were mailed and vehicle was green-tagged. Date filed: _____

Case will automatically be set for hearing upon the filing of the complaint with municipal court.

5. Check if violation was abated/corrected within 10 days of date notice was mailed (Note- If Certified Notice to last registered owner is returned undelivered, action to abate shall not be taken earlier than the 11th day after the date of return).

Violation abated within 10 days - Notify Court and Prosecutor - Hearing will be canceled. Date violation checked: _____

Hearing requested by Owner/Occupant. Date of Hearing as automatically set by court: _____

6. Attend Hearing.

All relevant photos, documents, and other evidence should be reviewed by Prosecutor prior to hearing.

7. Abatement Order Issued by Judge of the Municipal Court.

Date of Removal/Abatement of Junked Vehicle: _____

8. Notification of Texas Department of Transportation.

TXDOT notified of abatement not later than the fifth (5th) day after the date of removal. Date of Notification: _____