

ORDINANCE NO. 06142007-2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALVORD, TEXAS DEFINING CERTAIN TERMS; DECLARING JUNKED VEHICLES TO BE A PUBLIC NUISANCE; DECLARING THE MAINTENANCE OF A NUISANCE TO BE UNLAWFUL; PROVIDING FOR JUNKED VEHICLE ENFORCEMENT; PROVIDING FOR NOTICE TO OWNERS AND OCCUPANTS TO ABATE PUBLIC NUISANCE; PROVIDING FOR HEARING IN MUNICIPAL COURT; PROVIDING FOR REMOVAL OF NUISANCE; PROVIDING FOR REMOVAL BY ORDER OF THE MUNICIPAL COURT; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR ADMINISTRATION OF ORDINANCE; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the meeting at which this ordinance was considered was open to the public, properly posted, and in compliance with the Texas Open Meetings Act, Chapter 551, Texas Government Code; and

WHEREAS, Texas Transportation Code Chapter 683 allows cities to implement procedures regarding junked vehicles; and

WHEREAS, the City Council of the City of Alvord, Texas finds that junked vehicles are detrimental to the citizens of the city.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF ALVORD, TEXAS:**

SECTION 1. DEFINITIONS.

For the purpose of this article, the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future; words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "Shall" is always mandatory and not merely directory.

(A) ANTIQUE VEHICLE: A passenger car or truck that is at least 25 years old.

(B) INOPERABLE: A motor vehicle not capable of being used or operated due to legal or mechanical incapability.

(C) JUNKED VEHICLES: A motor vehicle or a part thereof, that:

- (i) Does not have lawfully attached to it an unexpired license plate;
- (ii) Does not have lawfully attached to it a valid motor vehicle inspection certificate;
- (iii) Is wrecked, dismantled or partially dismantled, or discarded; or

(iv) Is inoperable and has remained inoperable for more than:

(a) 72 hours if the vehicle is on public property; or

(b) 30 consecutive days if on private property.

(D) MOTOR VEHICLE: A vehicle that is subject to registration by Chapter 501 of the Texas Transportation Code.

(E) MOTOR VEHICLE COLLECTOR: A person who:

(A) owns one or more antique or special interest 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.

(F) MUNICIPAL COURT: The Municipal Court in and for the City of Alvord, Texas.

(G) PERSON: Any individual, firm, partnership, association, corporation, company or organization of any kind.

(H) SPECIAL INTEREST VEHICLE: 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 2. DECLARED PUBLIC NUISANCE.

A junked vehicle, including a part of a junked vehicle, which is visible at any time of the year from a public place or public right-of-way:

(1) is detrimental to the safety and welfare of the public;

(2) tends to reduce the value of private property;

(3) invites vandalism;

(4) creates a fire hazard;

(5) is an attractive nuisance creating a hazard to the health and safety of minors;

(6) produces urban blight adverse to the maintenance and continuing development of municipalities; and

(7) is a public nuisance.

SECTION 3. NOTICE.

(A) *General.*

- (1) The City, by this subsection (a), is adopting procedures for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.
- (2) This ordinance shall be administered by the City Council, City Administrator, or designee provided he/she is a regularly salaried, full-time employee of the city. Any authorized person may remove the nuisance.
- (3) A person authorized to administer these 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.

(B) *Notice.*

- (1) Notice of the nature of the nuisance must be sent by certified mail with a five-day return requested to:
 - a. The last known registered owner of the nuisance;
 - b. Each lienholder of record of the nuisance; and
 - c. The owner or occupant of:
 1. The property on which the nuisance is located; or
 2. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (2) The notice must state that:
 - a. The nuisance must be abated and removed not later than the tenth day after the date on which the notice was mailed; and
 - b. Any request for a hearing must be made before that ten-day period expires.
- (3) 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.
- (4) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.
- (5) No notice is required for issuance of a citation for an offense under this section.

(C) *Hearing.*

- (1) The judge of the municipal court shall conduct hearings relative to the abatement of junked vehicles.
- (2) A public hearing must be conducted prior to the removal of the public nuisance not earlier than the 11th day after the date of service of notice.
- (3) If a hearing is requested by a person for whom notice is required under subsection (B)(1)c. of this section, the hearing shall be held not earlier than the 11th day after the date of the service of notice.
- (4) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (5) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
 - a. Description;
 - b. Vehicle identification number; and
 - c. License plate number.
- (6) As part of the order authorizing removal or abatement of the public nuisance, the court shall:
 - a. Prohibit a vehicle from being reconstructed or made operable after removal; and
 - b. Require that notice identifying the vehicle or part of the vehicle be given to the Texas Department of Transportation not later than the fifth day after the date of removal.
- (7) If a hearing is requested within ten (10) days after notice to abate the nuisance, then the City Council, City Administrator or designee shall not order the removal of the vehicle until ordered to do so by the judge of the municipal court. If at the hearing the judge of the municipal court finds that the vehicle in question is a junked vehicle, he/she shall order that the junked vehicle be rehabilitated or removed within ten (10) days from the date of the hearing and shall sign an order allowing the City Council, City Administrator or designee to remove the vehicle after the tenth day. If the judge of the municipal court finds that the vehicle is not in violation of the nuisance vehicle ordinance, there will be no further action against the vehicle until such time as the status of the vehicle has changed.

- (8) If the owner or occupant of the premises fails to either remove and abate the nuisance or request a hearing within ten (10) days after service of the notice to abate the nuisance then the City Council, City Administrator or designee may upon showing proof to the judge of the municipal court and obtaining an order thereof, take possession of the vehicle and have it removed. The City Council, City Administrator or designee shall thereafter dispose of the nuisance vehicle in a manner provided by state law. The City Council, City Administrator or designee may at any time cause to be filed a complaint in the municipal court for the violation of maintaining a public nuisance.
- (9) The municipal court shall have full authority to enforce the abatement procedures, including but not limited to issuing all necessary orders.

SECTION 4. FINDINGS OF JUDGE; PENALTY.

(A) The judge of the municipal court shall hear any case brought before the court, as set out herein, and shall determine whether the defendant is, in fact, in violation of this ordinance. Upon a finding the defendant is in violation of this ordinance, such defendant may be deemed guilty of a misdemeanor and subject of a fine not to exceed two hundred dollars (\$200.00). The judge of the municipal court may further order the defendant to remove and abate such nuisance within ten (10) days; the same being a reasonable time. If the defendant shall fail or refuse, within ten (10) days to abate or remove the nuisance, the judge of the municipal court may issue an order to the City Council, City Administrator or designee to have the same removed and the City Council, City Administrator or designee may take possession of the vehicle and have it removed. The City Council, City Administrator or designee shall thereafter dispose of the nuisance vehicle in a manner provided by state law.

(B) Each day that such a nuisance shall continue after the ten (10) day abatement period, as herein set out, shall constitute a separate offense.

SECTION 5. REMOVAL WITH PERMISSION OF THE OWNER.

If, within ten (10) days after receipt of notice from the City Council, City Administrator or designee to abate the public nuisance, as herein provided, the owner or occupant of the premises shall give written permission to the City Council, City Administrator or designee for removal of the nuisance vehicle, the City Council, City Administrator or designee is authorized to accept such permission and may take possession of the vehicle and have it removed. The City Council, City Administrator or designee shall thereafter dispose of the nuisance vehicle in a manner provided by state law, after which no criminal complaint will be issued based on such motor vehicle.

SECTION 6. APPLICATION OF THIS ORDINANCE.

(A) This ordinance shall not apply to:

- (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner, where it is not visible from a street or other public or private property;

- (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or
- (3) An antique vehicle or special interest vehicle stored by a motor vehicle collector on the collector's property, provided that such vehicle and the outdoor storage areas are maintained in an orderly manner, do not constitute a health hazard, and are screened from ordinary public view by appropriate means, including a fence made of a material that can not ordinarily be seen through, rapidly growing trees, or shrubbery;

(B) A vehicle or part of a vehicle covered by a tarp, car blanket, or similar covering does not meet the requisite screening requirements of subsection (A)(3).

(C) For purposes of this section, ordinary public view means the view from private or public property, or public right-of-way from the average grade of the surrounding property.

SECTION 7. OBSTRUCTIONS TO TRAFFIC.

Nothing in this ordinance shall affect ordinances that permit the immediate removal of a vehicle that is on public property, which constitutes a danger or obstruction to traffic.

SECTION 8. AUTHORITY TO ENFORCE.

The City Council, City Administrator or designee, may enter upon private property for the purposes specified in this ordinance to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or cause to be removed a vehicle or parts thereof declared to be a nuisance pursuant to this ordinance. The municipal court shall have the authority to issue all orders necessary to enforce this chapter.

SECTION 9. ADMINISTRATION OF ORDINANCE.

The administration of this ordinance shall be by regularly salaried, full-time employees of the City of Alvord, Texas, except that removal of nuisances may be by other duly authorized persons.

SECTION 10. RECITALS.

The recitals contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 11. SEVERABILITY.

It is specifically declared to be the intention of the City Council that sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without

the incorporation in this ordinance of any unconstitutional or invalid phrases, clauses, sentences, paragraphs or sections.

SECTION 12. ORDINANCES IN CONFLICT REPEALED.

All ordinances and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith. The City Council hereby finds that Ordinance Nos. 8-11-86 and 10-19-00 are in conflict herewith and expressly repeal said ordinances.

SECTION 16. EFFECTIVE DATE.

This ordinance shall take effect immediately from and after its adoption and it is accordingly so ordained.

SECTION 17. PUBLICATION.


The City Council hereby directs the City Secretary to publish the caption of this ordinance in compliance with the requirements of the Texas Local Government Code.

Signed this 14th day of June, 2007.



Mayor, Frank Knittel

ATTEST:



City Secretary, Tammy Edwards