

ORDINANCE NO. 07-09-11-A

AN ORDINANCE MAKING IT UNLAWFUL TO LEAVE OR PERMIT TO REMAIN UPON ANY PRIVATE OR PUBLIC PROPERTY WITHIN THE CITY OF DILLEY, 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 DILLEY, TEXAS, (EXCEPT AS PROVIDED HEREIN) TO BE UNLAWFUL; 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 Dilley, Texas, finds a large number of junked vehicles, as that term is defined herein, 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 the urban blight which is adverse to the maintenance and continuing development of the City of Dilley, Texas;

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

SECTION 1.0 SHORT TITLE

This Ordinance may be cited as the "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 from the context:

1. **"City"** shall mean the City of Dilley, Texas.
2. **"Administrator"** shall mean a regularly salaried, full-time employee of the City of Dilley, designated by the City Council as the individual tasked with the enforcement of this Ordinance.
3. **"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.
4. **"Junked Vehicles"** means any motor vehicle as defined in Texas Transportation Code, Section 683.071 and as amended, 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 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 to 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 Dilley, 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 Dilley, 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 said ten (10) day period, such notice to be mailed, by certified or registered mail, with a five (5) day return receipt 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 Dilley, when such hearing is requested by the owner or occupant of the premises on which said vehicle is located, within (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 part 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 vehicle's;
 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 Dilley, as herein provided, if said Municipal Judge finds that such a nuisance is 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, the Administrator 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 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 of the City, after 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 a 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 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 Vehicles"** 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 or 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 ORDINANCE

The administration of this Ordinance shall be by regularly salaried, full-time employees of the City of Dilley, 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, 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 the 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 or not less than Twenty-Five Dollars (\$25.00) 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 CONFLICT WITH OTHER ORDINANCES

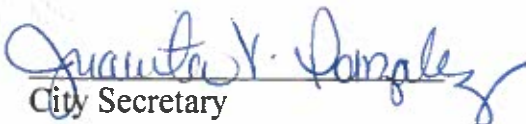
All other Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

PASSED AND APPROVED this 11TH day of SEPTEMBER, 2007.



Mayor Russell J. Foster

ATTEST:



City Secretary