

ORDINANCE NO. 2003-03-03

AN ORDINANCE OF THE CITY OF WESTON, TEXAS, COLLIN COUNTY, TEXAS, ADOPTING PROVISIONS FOR REGULATION, RESTRICTING, AND REMOVAL OF ABANDONED AND JUNKED VEHICLES; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR THE AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES; PROVIDING NOTICE REQUIREMENTS, STORAGE FEES, AND SALE OR DISPOSITION OF SAME; PROVIDING FOR THE DECLARATION OF JUNKED VEHICLES AS A PUBLIC NUISANCE, PROVIDING FOR THE ABATEMENT OF A NUISANCE, THE HEARING PROCESS, NOTICE REQUIREMENTS, EXCEPTIONS, AND ENFORCEMENT AUTHORITY FOR SAME; PROVIDING A SAVINGS CLAUSE; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Weston, Texas (the "City") is authorized and empowered pursuant to Chapter 683 of the Texas Transportation Code, as amended, to establish rules and regulations regarding abandoned and junked motor vehicles; and

WHEREAS, the City desires to adopt provisions regulating and restricting abandoned and junked vehicles and to provide such regulations and procedures for the removal and orderly disposition of abandoned or junked motor vehicles within the city limits; and

WHEREAS, the City Council does hereby find and determine that the adoption of this Ordinance is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1
PURPOSE

That the procedures for regulating, restricting and providing for removal of junked or abandoned motor vehicles as herein established have been made for the purpose of promoting the health, safety, morals and the general welfare of the City.

SECTION 2
DEFINITIONS

That for purposes of this Ordinance, the following definitions apply, to wit:

- A. "Abandoned motor vehicle" means a motor vehicle that:
1. is inoperable, is more than five years old, and has been left unattended on public property for more than forty-eight (48) hours;
 2. has remained illegally on public property for more than forty-eight (48) hours;
 3. has remained on private property without the consent of the owner or person in charge of the property for more than forty-eight (48) hours;
- B. "Antique auto" means a passenger car or truck that is at least thirty-five (35) years old.
- C. "Garagekeeper" means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair or maintenance of a motor vehicle.
- D. "Junked Vehicle" means a vehicle that is self-propelled and:
1. does not have lawfully attached to it:
 - a. an unexpired license plate; or
 - b. a valid motor vehicle inspection certificate; and
 2. is
 - a. wrecked, dismantled or partially dismantled, or discarded; or
 - b. 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.
- E. "Motor Vehicle" means a motor vehicle subject to registration under the laws of the State of Texas, except that for purposes of Sections 2. A, 2. B and 2. D of this Ordinance, "motor vehicle" includes a motorboat, outboard motor, or watercraft subject to registration under Chapter 31, Texas Parks and Wildlife Code.
- F. "Motor Vehicle Collector" means the owner of one or more antique or special interest vehicles who collects, acquires, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore and preserve an antique or special interest vehicle for historic interest.

- G. "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.
- H. "Storage facility" means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storage, or parking of motor vehicles.

SECTION 3

ABANDONED MOTOR VEHICLES

- A. **Authority to Take Possession.** The City may take into custody an abandoned motor vehicle found on public or private property. The City Council may hire persons, equipment, and facilities to remove, preserve and store an abandoned motor vehicle it takes into custody.
- B. **Notice**
1. In the event the City takes into custody an abandoned motor vehicle, it shall notify not later than the 10th day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record [pursuant to Section 683.012 of the Texas Transportation Code,] that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges, if applicable. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the motor vehicle at a public auction.
 2. If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and address of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

- C. **Storage Fees.** When the City has taken custody of an abandoned motor vehicle, the City shall be entitled to reasonable storage fees for:
1. a period of not more than 10 days beginning on the day the City takes custody and ending on the day the City mails notice as provided by this subsection; and
 2. a period beginning on the day after the city mails notice and ending on the day that accrued charges are paid and the vehicle is removed.
- D. **Sale or Other Disposition.** If an abandoned motor vehicle has not been reclaimed as provided, the City may sell the vehicle at a public auction.

SECTION 4

JUNKED VEHICLES

A. Declaration of Public Nuisance / Offense.

1. A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes a nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the City by producing urban blight adverse to the maintenance and continuing development of the City, and is a public nuisance.
2. A person commits an offense if that person maintains a public nuisance as described by Section 3(A)(1) of this Ordinance.

B. Abatement of Nuisance.

1. Visible From Public Property:

In the event a junked vehicle constituting a public nuisance is visible from public property and found on public property, private property, or a public right-of-way, notice in writing must be mailed, by certified mail with a 7-day return requested, to the last known owner of the junked motor vehicle, each lien holder of record and to the owner or occupant of the public premises or to the owner or occupant of the property on which the public nuisance is located, or if the public nuisance is located on a public right-of-way, to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. Notice shall state the nature and location of the public nuisance, that the nuisance must be removed and abated within fifteen (15) days after the date on which a signed return receipt or unclaimed or refused letter is received and that a request for a hearing must be made before expiration of that fifteen (15) day period. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If the notice is

returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not earlier than the 16th day after the date of the return.

2. **Public Hearing:**

- a. If a public hearing is requested by a person who has received notice under Section B of this Ordinance, a public hearing shall be held before the municipal judge of the City before the removal of a public nuisance. Such hearing shall be held not earlier than the 16th day after the date of service of the notice to abate the nuisance. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. If, after such public hearing, the municipal judge determines that the vehicle or vehicle part(s) is a public nuisance as defined herein, he shall enter an order requiring the removal of such vehicle or vehicle part(s) and shall in such order include a description of the vehicle or vehicle part(s) and the correct vehicle identification number and license plate number of the vehicle, if the information is available at the site.
- b. If such a public hearing is not requested, the municipal judge shall nevertheless conduct a public hearing relative to the removal and abatement of the nuisance. If after such public hearing, the municipal judge determines that the vehicle or vehicle part(s) is a public nuisance as defined herein, he shall enter an order as outlined in the immediately preceding paragraph. In addition, the City may file a complaint in an appropriate court seeking injunctive relief and/or any other legal remedy available to it.

C. **Exceptions.** The procedures of this section shall not apply to a vehicle or vehicle part(s):

1. that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public property or right-of-way;
2. that 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. that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or vehicle part(s) and the outdoor storage area, if any, are maintained in an orderly manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence.

D. **Authority to Enforce.**

1. The procedures for abatement and removal of a public nuisance shall be administered by any person authorized by the City Council.

2. After a hearing has been conducted declaring a vehicle or vehicle part(s) to be a public nuisance under this Ordinance, those City employees authorized to administer this Ordinance may enter private property for the purposes specified herein to examine a vehicle or vehicle part(s), obtain information as to the identity of the vehicle and remove or cause the removal of a vehicle or vehicle part(s) that constitutes a nuisance.
3. The relocation of a junked vehicle that is a public nuisance to another location in the City or County 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 5

SAVINGS

All rights and remedies of the City of Weston are expressly saved as to any and all violations of the provisions of any other Ordinances of the City affecting abandoned or junked vehicles which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6

CUMULATIVE REPEALER CLAUSE

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 7

SEVERABILITY

If any section, article, paragraph, sentence, clause phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 8
PENALTY

It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not to exceed Two Hundred Dollars (\$200.00) for each offense, and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

SECTION 9
PUBLICATION CLAUSE

The City Secretary of the City of Weston is hereby directed to publish in two issues of the Official newspaper of the City of Weston, the exact Caption, Penalty and Effective Date clause of this Ordinance as required by the Texas Local Government Code.

SECTION 10
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption, Publication Clause and Effective Date clause in the minutes of the City Council of the City of Weston and by filing this Ordinance in the Ordinance records of the City.

SECTION 11
EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its date of passage and publication.

NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS:

PASSED AND APPROVED this 11th day of March, 2003

Patti Harrington
Patti Harrington, Mayor

ATTEST:

Michele Smith
Michele Smith, City Secretary



ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW. (COUNTY OF COLLIN) (THE STATE OF TEXAS)
I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Collin County, Texas on

MAR 14 2003

Brenda Taylor



Filed for Record in:
Collin County, McKinney TX
Honorable Brenda Taylor
Collin County Clerk

On Mar 14 2003
At 3:49pm

Doc/Num : 2003- 0047328

Recording/Type: OR 23.00
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