

ORDINANCE NO. 2015-034_____

An Ordinance amending the Code of Ordinances of the City of Pasadena, Texas at Chapter 20, Miscellaneous Provisions and Offenses, Article IV, Junked Vehicles by amending Sections 20-72, 20-73 and 20-75; providing a repealing clause; providing a savings clause; providing for severability; and providing a penalty.

BE IT ORDAINED BY THE CITY OF COUNCIL OF THE CITY OF PASADENA:

SECTION 1. That Chapter 20, Miscellaneous Provisions and Offenses, Article IV, Junked Vehicles, of the Code of Ordinances of the City of Pasadena, Texas is hereby amended at Section 20-72 Definitions, to read as follows:

Sec. 20-72. Definitions.

As used in this article:

Antique auto means a passenger car or truck that is at least twenty-five (25) years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Demolisher means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Junked Vehicle

- (a) In this Article, “junked vehicle” means a vehicle that:
- (1) is self-propelled; 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.
- (b) For purposes of this Article, “junked vehicle” includes a motor vehicle, aircraft, or watercraft. This Article applies only to:
- (1) a motor vehicle that displays an expired license plate or does not display a license plate;
 - (2) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation

Administration aircraft registration regulations in 14 C.F.R. Part 47; or

(3) a watercraft that:

- (A) does not have lawfully on board an unexpired certificate of number; and
- (B) is not a watercraft described by Section 31.055, Parks and Wildlife Code.

Motor vehicle means a motor vehicle as defined in Subchapter A of Chapter 501, Texas Transportation Code, Certificate of Title Act:

- (1) Any motor driven or propelled vehicle required to be registered under the laws of this state;
- (2) A trailer or semi-trailer, other than manufactured housing, that has a gross vehicle weight of four thousand (4,000) pounds;
- (3) A travel trailer;
- (4) An all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001 of the Texas Transportation Code, as amended, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or
- (5) A motorcycle, motor driven cycle, or moped that is not required to be registered under the laws of this state.

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 2. That Chapter 20, Miscellaneous Provisions and Offenses, Article IV, Junked Vehicles, of the Code of Ordinances of the City of Pasadena, Texas is hereby amended at Section 20-73(a) Junked vehicle declared public nuisance, to read as follows:

Sec. 20-73. - Junked vehicle declared public nuisance.

(a) A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way, is detrimental to the safety and welfare of the public, tends to reduce the value of private property, invites vandalism, creates a fire hazard, is an attractive 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.

SECTION 3. That Chapter 20, Miscellaneous Provisions and Offenses, Article IV, Junked Vehicles, of the Code of Ordinances of the City of Pasadena, Texas is hereby amended at Section 20-75 Procedures for abatement of public nuisance, to read as

follows:

Sec. 20-75. - Procedures for abatement of public nuisance.

The city council hereby establishes the following procedures for the abatement of a public nuisance, as defined in section 20-73 above, from private property, public property, or public rights-of-way as authorized by Chapter 683, Subchapter E of the Texas Transportation Code, and amendments thereto.

(1) *Administration.*

- a. The code compliance officer of the Code Enforcement department is hereby authorized to administer the procedures set forth in this article.
- b. The judge of the municipal court is hereby designated the official of the city authorized to preside over all public hearings herein provided and to issue orders necessary to enforce the procedures set forth in this article.
- c. The procedures in this article must be administered by regularly salaried, full-time employees of the city, except that the removal of a junked vehicle or junked vehicle part from property may be by any duly authorized person.

(2) *Notice provisions for a public nuisance on private or public property.* For a public nuisance on public or private property, the code compliance officer must give not less than ten (10) days' written notice of the nature of the public nuisance which notice shall state:

- a. The nature of the public nuisance on private property;
- b. That the nuisance must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed; and
- c. That a request for a hearing must be made before expiration of the ten-day period.

(B) The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service 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.

If notice is returned undelivered by the United States Postal Service, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return. 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, personally delivered.

(3) *Reconstruction of junked vehicle.* Any junked vehicle which has been removed under the terms of this article shall not be reconstructed or made operable.

- (4) *Public hearing.* A hearing must be held not earlier than the 11th day after the date of the service of notice, before the judge of the municipal court of the city, if such hearing is requested by the person who receives notice of the junked vehicle or junked vehicle part, any lienholder of record, the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located. A request for hearing under this section must be made before the expiration of the ten (10) day period after the date on which the notice described in Section 20-75(2) of this Article, was personally delivered or mailed. A request for hearing under this section must be made in writing.
- (5) *Court order.* At the conclusion of a public hearing under subsection (6) above, the judge of the municipal court of the city upon a finding that a public nuisance exists shall order the removal of such junked vehicle or junked vehicle part. Such order shall include a description of the motor vehicle and the correct identification number and license plate number of the vehicle if such identification number and license number are available at the site.

For an aircraft such order must include the aircraft's description and federal identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47. For a watercraft, such order must include the watercraft's description and identification number as set forth in the watercraft's certificate of number.

- (6) *Removal.* When the owner or occupant has failed to abate a nuisance within the time hereinabove specified or fails, refuses or neglects to comply with the order of the court under section 20-75(5) of this article, the code compliance officer shall arrange for the disposal of the junked vehicle or junked vehicle part by removal to a scrapyards, demolisher, or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of section 20-75(3) of this article. The city may operate a disposal site if the city council determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of the junked vehicle or junked vehicle part, or the city may transfer the junked vehicle or junked vehicle part to another disposal site if the disposal is only as scrap or salvage.
- (7) *Notice to the Texas State Department of Highways and Public Transportation.* The code compliance officer shall give notice to the Texas State Department of Highways and Public Transportation not later than five (5) days after removal of a junked vehicle or junked vehicle part, citing Chapter 683, Subchapter E of the Texas Transportation Code, as amended, and this article, setting forth all identification numbers and such other descriptions as may be available at the site and requesting cancellation of the certificate of title to such junked vehicle pursuant to Chapter 501 of the Texas Transportation Code, as amended.

- (8) *Exceptions.* This Article shall not apply to a vehicle or vehicle part
- (a) that is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property;
 - (b) 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 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 maintained in an orderly manner, not a health hazard and screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery. An opaque cover placed over or on a car or vehicle or vehicle part, alone, shall not constitute adequate screening from public view.
 - (c) In this section:
 - (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 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.
 - (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.
- (9) *Relocation of junked vehicle.* Relocation of a junked vehicle that is a public nuisance to another location in the City of Pasadena, Texas 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 4. That all ordinances in force when this Ordinance becomes effective which are inconsistent with, or in conflict with this Ordinance are hereby expressly repealed insofar as said ordinances are inconsistent with or are in conflict with this Ordinance.

SECTION 5. That all rights and remedies which have accrued in favor of the City under this Chapter and amendments thereto shall be and are preserved for the benefit of the City.

SECTION 6. That the City Council of the City of Pasadena, Texas does hereby declare that if any Section, subsection, paragraph, sentence, clause phrase, word or portion of this Ordinance is declared invalid or unconstitutional by a court of competent

jurisdiction, the City Council would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declares that its intent is to make no portion of this Ordinance dependent upon the validity of any other portion thereof, and that all said remaining portions shall continue in full force and effect.

SECTION 7. A person who commits an offense under this section is, on conviction, subject to a fine not to exceed two hundred dollars (\$200.00). On conviction, the court shall order removal and abatement of the nuisance.

SECTION 8. That the City Council officially determines that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further confirms such written notice and the contents and posting thereof.

(SIGNATURE AND APPROVAL – NEXT PAGE)

PASSED ON FIRST READING by the City Council of the City of Pasadena, Texas in regular meeting in the City Hall this the ____ day of _____, A.D. 2015.

APPROVED this the ____ day of _____, A.D., 2015.

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

APPROVED:

LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS

PASSED ON SECOND AND FINAL READING by the City Council of the City of Pasadena, Texas in regular meeting in the City Hall this the ____ day of _____, A.D., 2015.

APPROVED this the __21st__ day of _____April _____, A.D. 2015.

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

APPROVED:

LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS