



# City of Dawson

## ORDINANCE 2016-2

### AN ORDINANCE AMENDING ORDINANCE 2004-7 OF THE CITY CODE ORDINANCES REGARDING ABANDONED/JUNK VEHICLE ORDINANCE

#### A. Definitions

- (1) Police Department means The Police Department of the City of Dawson, Texas.
- (2) City means The City of Dawson, Texas.
- (3) Junked Vehicle means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d, Vernon's Texas Civil Statutes), that:
  - (a) is inoperative;
  - (b) and that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled or discarded, or that remains inoperable for a continuous period of more than 45 days.
- (4) 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.
- (5) Antique Auto means a passenger car or truck that is at least thirty-five(35) years old.
- (6) Special Interest Vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- (7) 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.
- (8) Screening Device means a barrier of stone, brick, pierced brick or block, uniformly colored wood or other permanent material of equal character, density and design, at least six (6) feet in height but not to exceed eight (8) feet in height and perpetually maintained in good condition by the owner or person in control of the premises

**B. Junked Vehicles as Public Nuisance**

- (1) A junked vehicle that is located on private property, public property or public right-of-way, in the City of Dawson, Texas, where it is visible from a public place or public right-of way is a public nuisance.
- (2) The owner or occupant of any real property with the City of Dawson, Texas commits an offense if such person keeps, or permits the presence of, a junked vehicle or vehicle part on such property.
- (3) It shall be unlawful for any person to knowingly or intentionally interfere with or attempt to prevent the physical impoundment of any junked vehicle by the Chief of Police, his delegate, or any other person authorized to impound a junked vehicle or vehicle part.
- (4) A person who commits an offense under this article 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.

**C. Abatement or Removal Order; Contents; Service**

- (1) Whenever a public nuisance exists on private property, the Chief of the City Police Department, or other employee of the City designated by the Chief, shall give notice of not less than ten (10) days, stating the nature of the public nuisance on private property, that it must be removed or abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice must be mailed, by certified mail with a five (5) day return receipt requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and the owner or occupant of the private premises on which the public nuisance exists. 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 any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.
- (2) Whenever a public nuisance exists on public property, the Chief of Police, or other employee of the City designated by the Chief, shall give notice of not less than ten (10) days, stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice must be mailed, by certified mail with a five (5) day return receipt requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. 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 any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

- (3) It shall be unlawful to reconstruct a junked vehicle or to make it operable after it has been removed as a public nuisance.
- (4) Prior to the removal of a vehicle or vehicle parts as public nuisance, a public hearing shall be held before the Municipal Court, if a hearing is requested by 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, within ten (10) days after service of notice to abate the nuisance. Upon finding that the vehicle or vehicle parts constitutes a public nuisance, the Municipal Judge may issue an order requiring the removal of such vehicle or vehicle parts and shall include therein a description of the vehicle and its correct identification number and license number if the information is available at the site of the nuisance.
- (5) If a request for hearing is not timely made by any party entitled to notice under this Section C of this ordinance, and the nuisance is not abated within the ten-day notice, the Municipal Judge, upon receiving an affidavit from one charged with enforcement of this article that such nuisance exists after voluntary compliance period, may issue an order authorizing the Police Department or any other enforcement officer to take possession of such junked vehicle or vehicle part and remove it from the premises.
- (6) Notice shall be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal. The notice must identify the vehicle or vehicle part.
- (7) The procedures of this article shall not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or vehicle part 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 an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if in each instance the vehicle or vehicle part and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
- (8) The procedures of this article must be administered by a Dawson police officer or regularly salaried, full time employees of the City, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.
- (9) If the registered owner of the vehicle so desires, it shall be permissible for such owner to assign any unencumbered title to a wrecker service designated by the City. Such vehicle shall then

be removed from the property at no cost to said registered owner and shall at all times thereafter be the property of the wrecker service so removing the vehicle. A copy of said assignment shall be provided to the Chief of Police.

**D. Removal with Permission of Owner or Occupant**

If within ten (10) days after receipt of notice from the Chief of Police or his designee to abate the nuisance, as herein provided, the owner or occupant of the premises should give his written permission for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this ordinance.

**E. Disposal of Junked Vehicles**

A junked vehicle or vehicle part may be disposed of by removal to a scrap-yard, demolisher or any suitable site operated by the City for processing as scrap or salvage.

**F. Authority to Enforce**

The Chief of Police or his designee may enter private property for the purposes specified in this ordinance to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The Municipal Court of the City may issue orders necessary to enforce the procedures of this article.

**G. Effect**

This article does not affect a law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

**H. Outside Storage**

- (1) It shall be unlawful for any owner, lessee, or occupant, or any person in control of any lot, parcel of land, or premise within the City limits to utilize such property for the open storage of any of the following:
  - (a) Abandoned Vehicles  
Abandoned, discarded or neglected vehicles such as motor or non-motorized vehicles, boats, trailers and similar items and parts thereof.
  - (b) Abandoned Appliances  
Abandoned, discarded or neglected domestic or non-domestic appliances and parts thereof.
  - (c) Supplies and Materials  
The open storage of building materials, rubbish, tires or any other product or supplies, unless exempted.
  - (d) Vegetation.

The open storage of dead trees, limbs, brush or weeds.

- (2) It shall be the duty and responsibility of every such owner, lessee, occupant or person in control of any lot, parcel of and, or premise to keep such property clean and to prevent a public nuisance.
- (3) It shall not be a defense that the storage was on the owner's, lessee's or occupant's porch or yard unless the items were screened from public view by a screening device.

**(I) Exceptions**

- (1) Any of the above-listed items that are screened from public view by a screening device and which will not cause health or sanitary nuisances are exempt.
- (2) Any person may appeal to the City Council for a variance. Any variance granted by the City Council shall be exempt.

STEPHEN SANDERS, MAYOR \_\_\_\_\_

DATE: \_\_\_\_\_

RONDA FRANKS, CITY SECRETARY \_\_\_\_\_

Date: \_\_\_\_\_