

ORDINANCE NO. 396

AN ORDINANCE OF THE CITY OF WALLER, TEXAS PROVIDING RULES AND REGULATIONS GOVERNING "JUNKED VEHICLES" TO BE CONSISTENT WITH STATE LAW; CONTAINING DEFINITIONS; DECLARING JUNKED VEHICLES A NUISANCE; PROVIDING FOR NOTICE AND HEARING PROVISIONS TO THE OWNERS OF JUNKED VEHICLES; PROVIDING FOR THE ABATEMENT OF THE NUISANCE; MAKING CERTAIN FINDINGS; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$200.00 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, abandoned and junked vehicles can promote the spread of mosquitoes, rats, and other disease carrying varmints;

WHEREAS, abandoned and junked vehicles within an inhabited area often contribute to the visual pollution in the area;

WHEREAS, the Texas Legislature has, through Chapter 683 of the Texas Transportation Code, as amended, declared abandoned and junked vehicles in the State of Texas to be a nuisance; and

WHEREAS, the City Council of the City of Waller, Texas finds that it is the best interest of the health, safety and welfare of its citizens to adopt provisions relating to junked vehicles consistent with state law; now, therefore,

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

Section 1. The facts and matters contained in the preamble are hereby found to be true and correct.

Section 2. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means any person duly appointed by the city council to administer and enforce this Ordinance.

Antique auto means a passenger car or truck that is at least 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 or entity whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Junk vehicle or *junked vehicle* means any motor vehicle, as defined in Texas Transportation Code § 683.071 et seq., that is self-propelled and:

- (1) does not have lawfully attached to it:
 - (A) an unexpired license plate and
 - (B) a valid motor vehicle safety inspection certificate; and

- (2) is:
 - (A) wrecked, dismantled, partially dismantled, or discarded; or
 - (B) inoperable for a continuous period of more than:
 - a. Seventy-two (72) consecutive hours if the vehicle is on public property; or
 - b. Thirty (30) consecutive days, if the vehicle is on private property.

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 a hobbyist.

Any word not specifically defined in this section shall have the same meaning as that word has under Chapter 683 of the Texas Transportation Code.

Section 3. **Public nuisance declared.** A junked vehicle, including a part of a junked vehicle, that is located in any 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 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 which is adverse to the maintenance and continuing development of the city, and such vehicles are hereby declared to be a public nuisance.

Section 4. **Administrative abatement process.** The administrator shall determine when a junk vehicle or part thereof is located so as to be visible from a public place or public right-of-way, thereby constituting a public nuisance.

Section 5. **Notice--Private property.**

(a) For a nuisance on private property, the administrator shall give not less than ten (10) days' notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten (10) days following service of notice to abate such nuisance, and that if not abated by such day a hearing will be held by the city council or its designee. The notice shall set forth the date, time, and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed, by certified mail with a five (5) day return requested, to the last known registered owner of the junk motor vehicle, any lienholder of record, and to the owner or occupant of the private premises upon which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice may be placed on the motor vehicle or, if the last known registered owner is physically located, the notice may be hand delivered.

(b) If any notice is returned undelivered by the 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.

Section 6. Notice--Public property.

(a) For a nuisance on public property, the administrator shall give not less than ten (10) days' notice stating the nature of the public nuisance on public property or on a public right-of-way, that it must be removed and abated within ten (10) days following service of notice to abate such nuisance, and that if not abated by such day a hearing shall be held by the city council or its designee. The notice must set forth the date, time, and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed, by certified mail with a five day (5) return receipt requested, to the last known registered owner of the junk motor vehicle, any lienholder of record, and to the owner or occupant of the public premises or 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.

(b) If any notice is returned undelivered by the 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.

Section 7. Abatement by owner. Upon receipt of the notice mandated by Section 5 or 6 of this Ordinance, the owner of the junked vehicle may abate such nuisance by complying with Section 12 of this Ordinance.

Section 8. Public hearing. Any order issued after the hearing provided for in Sections 5 or 6 shall include a description of the vehicle, or vehicle part, and the correct identification number and license number of the vehicle, if the information is available at the

site. After any junk vehicle is removed as provided for in this article, it shall not thereafter be reconstructed or made operable.

Section 9. **Removal by city.** When a junked vehicle, or part thereof, remains on the property after being ordered removed as provided by this article, the administrator shall cause such vehicle, or part thereof, to be removed and sold for the best price obtainable to a scrap yard or demolisher. All sums so raised shall be turned over to the city secretary for deposit in the general fund of the city.

Section 10. **Enforcement options.**

(a) Any person violating a provision of this article may be subject to the administrative abatement process as set forth in Sections 4-7, may be criminally prosecuted in the municipal court of the city under the penal provision of Section 12, or both.

(b) The relocation of a junked vehicle that is a public nuisance to another location in the same municipality or county after a proceeding for the abatement and removal of the public nuisance has commenced shall have no effect on the proceeding if the administrator determines that the junked vehicle constitutes a public nuisance at the new location.

Section 11. **Notice to department of transportation.** Within five (5) days after the date of the removal of the junk vehicle, notice shall be given to the state department of transportation, identifying the junk vehicle, or part thereof.

Section 12. **Exceptions.** The provisions of this article shall not apply to:

(a) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public property.

(b) 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 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:

- (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.

Section 13. **Penalty.** Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision contained in this Ordinance, or who shall commit or perform any act declared herein to be unlawful, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than fifty dollars (\$50.00) not to exceed two-hundred dollars (\$200.00). Each day of violation shall constitute a separate offense. In addition, upon conviction, the court shall order removal and abatement of the nuisance, which order may be enforced by any means authorized by the laws of the state.

Section 14. **Repealer.** All ordinances or parts of ordinances in consistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 15. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Waller, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 16. Effective Date. This Ordinance shall be in full force and effect immediately upon and after its final passage and publication as required by law.

PASSED, APPROVED, AND ADOPTED this 18th day of May, 2009.



Paul A. Wood, Mayor

ATTEST:



Jo Ann London, City Secretary