

## **ORDINANCE NO. 146**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COAHOMA, TEXAS, REPEALING AND REPLACING IN ITS ENTIRETY ORDINANCE NUMBER 75 IN ORDER TO REGULATE JUNKED MOTOR VEHICLES WITHIN THE CITY; DECLARING A PUBLIC NUISANCE, PROVIDING FOR A CRIMINAL OFFENSE; PROVIDING PROCEDURES FOR NOTICE, PUBLIC HEARINGS AND ABATEMENT OF SUCH VEHICLES; PROVIDING FOR A CRIMINAL PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200) FOR EACH VIOLATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION, PROVIDING AN EFFECTIVE DATE AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW**

**WHEREAS**, pursuant to Texas Local Government Code, Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Texas Local Government Code, Section 51.012, the City has full power to adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic; and

**WHEREAS**, the City Council finds that the requirements in this Ordinance are reasonable, necessary, and proper for the good government of the City of Coahoma.

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

**Section 1. Enactment.** The following regulations are hereby adopted and shall be effective as hereinafter provided.

### **AN ORDINANCE REGULATING JUNKED MOTOR VEHICLES**

This Ordinance is adopted pursuant to Chapter 683 of the Texas Transportation Code as it exists as of the date of adoption and as it may be amended in the future and is intended to regulate junked vehicles and the public nuisances posed by junked vehicles in order to protect life, health, property, safety and the welfare of the general public.

## ARTICLE I. JUNKED MOTOR VEHICLES

**Sec. 1.01 Definition of Junked Vehicle:** any vehicle that is self-propelled and:

- (a) displays an expired license plate or does not display a license plate; or
- (b) is wrecked, dismantled or partially dismantled or discarded; or
- (c) is inoperable and has remained inoperable for more than:
  - (1) seventy-two (72) hours if the vehicle is on public property; or
  - (2) thirty (30) consecutive days if the vehicle is on private property

For purposes of this ordinance the term Junked Vehicle shall also include any aircraft or watercraft meeting the definition of junked vehicle in Texas Transportation Code Section 683.071(b)

**Sec. 1.02 Exceptions:**

- (a) This Ordinance does not apply to a vehicle or 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 is completely screened from ordinary public view by means of a fence, trees, shrubbery or other appropriate means; or
  - (2) that is stored or parked in a lawful manner on private property in connection with the lawfully operated 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 part 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 appropriate means, including a fence, trees, shrubbery or other well maintained plants.
- (b) In this Ordinance:

*Antique Vehicle*. Means a passenger car or truck that is at least 25 years old;

*Motor Vehicle Collector*. Means a person who owns one or more antique or special interest vehicles and acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

*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.

## **ARTICLE II. PUBLIC NUISANCE DECLARED AND CRIMINAL OFFENSE**

**Sec. 2.01 Declaration of Junked Vehicle as a Public Nuisance.** A junked vehicle, including a part of a junked vehicle, that is located in a place where it is visible from a public place or public right-of-way is:

- (a) detrimental to the safety and welfare of the general public,
- (b) tends to reduce the value of private property,
- (c) invites vandalism,
- (d) creates fire hazards,
- (e) constitutes an attractive nuisance creating a hazard to the health and safety of minors,
- (f) produces urban blight adverse to the maintenance and continuing development of the city, and,
- (g) is a public nuisance.

### **Sec. 2.02 Criminal Offense.**

- (a) A person commits an offense when he or she maintains a junked vehicle or vehicle part in a manner declared a public nuisance.
- (b) The court shall order abatement and removal of the nuisance upon conviction.

## **ARTICLE III. PROCEDURES FOR ABATEMENT OF NUISANCE**

**Sec. 3.01 Adoption of Procedures.** The City hereby adopts procedures for the abatement, removal and disposal of junked vehicle or part of a junked vehicle as a public nuisance. These procedures conform to the requirements of Chapter 683, Subchapter E of the Texas Transportation Code.

### **Sec. 3.02 Notice.**

(a) Prior to the abatement and removal of a public nuisance under this ordinance, the City Secretary or other regular salaried, full-time employee of the City shall provide not less than ten (10) days written notice of the nature of the nuisance, which notice must be sent by certified mail with a five-day return 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:
    - (i) the property on which the nuisance is located; or
    - (ii) if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (b) The notice must state:
- (1) the nature of the nuisance on private or public property and its location;
  - (2) that the nuisance must be abated and removed not later than the tenth (10<sup>th</sup>) day after the date on which the notice was mailed or personally delivered;
  - (3) Specify that any request for a hearing before the City Council must be made in writing to the City Secretary before the 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, personally delivered.
- (d) If the notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11<sup>th</sup> day after the date of the return.

### **Sec. 3.03 City Council Hearing.**

- (a) If a hearing is requested by a person to whom notice is required to be sent in accordance with Section 3.02(a), the City Secretary shall notify the requestor and other persons entitled to notice under Section 3.02(a) of the date, time and place of the hearing. Such hearing shall be held not earlier than the eleventh day after the date of service of the notice. The City Council shall hear the matter at the location, date and time noticed, unless changed by agreement or necessity with notice to all entitled to notice, and shall, based on the information presented by the city representative(s) and the requestor (or any other person with legal or equitable interest in the matter) at the hearing, make a determination of whether the vehicle or vehicle part constitutes a public nuisance under this article. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (b) If the City Council finds that the vehicle or vehicle part constitutes a public nuisance under this ordinance, then it shall enter an order making such finding, ordering the owner of the vehicle or vehicle part, or owner or occupant of the private premises where the vehicle or vehicle part is located, as the case may be, to abate the public nuisance by removing or causing the removal of the same, and directing that if such public nuisance is not abated within ten days of the order that the City Secretary, or someone acting under her direction, remove and cause to be removed the vehicle from the public or private property. The Order shall be in writing, and must include, if available at the location of the nuisance, the following:
  - (1) vehicle description;
  - (2) vehicle identification number; and
  - (3) license plate number.
- (c) A copy of the order shall be mailed by certified mail to all known persons entitled to notice under Section 3.02(a), or otherwise provided or posted in accordance with subsection 3.02(c) if the address is unknown.

### **Sec. 3.04 Alternative Public Hearing and Council Resolution.**

- (a) If a hearing is not requested by a person entitled to notice pursuant to Section 3.01(a) above, the matter will be placed on the agenda of a regular or special meeting of the City Council for public hearing and action. A public hearing will be held to receive information from city staff as to the alleged public nuisance. Any interested person (having a legal or equitable interest in the vehicle or vehicle part, or the property on which it is located) may also be heard. Comments from the public may be received within the limits set by the City Council. At the

conclusion of the public hearing, the City Council shall take action on the item. If the Council determines that the vehicle or vehicle part constitutes a public nuisance as described in this ordinance, it shall adopt a written resolution making such determination, and directing that if such nuisance is not abated within ten (10) days of the resolution, that the City Secretary, or someone acting under her direction, remove and cause to be removed the vehicle from the public or private property. The resolution shall include the following, if available from the location of the nuisance:

- (1) vehicle description;
- (2) vehicle identification number; and
- (3) license plate number.

- (b) A copy of the Resolution shall be mailed by certified mail to all known persons entitled to notice under Section 3.02(a), or otherwise provided or posted in accordance with subsection 3.02(c) if the address is unknown.
- (c) If all registered owners of the Junked Vehicle and record owners of the premises on which it is located give written permission to the City to remove and dispose of the Junked Vehicle within ten days of the Notice given in accordance with Section 3.02 above, such written permission shall be presented to the City Council at the public hearing. The City Council may, but is not required to, consider such permission compliance with this ordinance and take action to remove or cause to be removed the vehicle from the public or private property pursuant to such written permission in accordance with this ordinance.

### **Sec. 3.05 Entry Onto Premises for Enforcement of This Article.**

The City Secretary or other regular salaried, full-time employee of the city 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 in accordance with this ordinance. A county or justice of the peace court may enter orders to enforce this article.

### **Sec. 3.06 Removal of the Nuisance.**

- (a) Removal of the nuisance shall be carried out, or caused to be carried out, by the City Secretary or other regular salaried, full-time employee of the city in accordance with this ordinance, and the orders and resolutions issued hereunder. Procedures for abatement and removal of a public nuisance will be administered by full-time, regularly salaried employees of the city, except that any authorized person may remove the nuisance, including a contractor hired by the city.
- (b) The City Secretary or other authorized employee shall give notice to the Texas Department of Transportation identifying the vehicle or vehicle part not later than the fifth (5<sup>th</sup>) day after the date of removal.
- (c) A junked vehicle or part may not be reconstructed or made operable by the city after it is removed.
- (d) Nothing herein shall be construed to affect laws or regulations permitting the immediate removal of a motor vehicle or part left on public property which constitutes an obstruction to traffic or a danger to the traveling public.

(e) Junked motor vehicle or vehicle parts may be disposed of in accordance with this article.

[State Law Reference – Authority to Abate Nuisance; Procedures, V.T.C.A., Transportation Code §683.074.]

### **Sec. 3.07 Disposal.**

The City Secretary or other regular salaried, full-time employee of the city may dispose of or cause the disposal of the junked motor vehicle or vehicle part by removal to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a county or a municipality, or as otherwise provided by Chapter 683, Subchapter E of the Transportation Code, or amendments or recodification thereof.

[State Law Reference – Junk Vehicle Disposal, V.T.C.A., Transportation Code §683.078.]

### **Sec. 3.08 Removal to Noncomplying Location Not Abatement of the Nuisance.**

In accordance with the authority provided by §683.074 of the Transportation Code, the relocation of a junked vehicle or vehicle part that is a public nuisance to another location in the city after a proceeding for abatement and removal of the public nuisance has commenced by notice, has no effect on the proceeding if the junked vehicle or vehicle part constitutes a public nuisance at the new location.

## **ARTICLE IV. PENALTY**

Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction in a court of competent jurisdiction shall be subject to a fine not to exceed \$200.00. Each vehicle or part of a vehicle in violation of any provisions of this Ordinance shall constitute a separate offense. Each day that a public nuisance is allowed to continue shall constitute a separate offense.

## **ARTICLE V. MISCELLANEOUS**

### **Sec. 5.01 Repeal.**

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance, including, but not limited to **Ordinance Number 75**, are hereby repealed, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

### **Sec. 5.02 Severability.**

If any paragraph, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

**Sec. 5.03 Publication.**

The City Secretary is hereby directed to publish a caption of this Ordinance that summarizes its purpose and penalty, as provided in Section 52.011 of the Texas Local Government Code.


**Sec. 5.04 Effective Date.**

This Ordinance shall be effective upon its passage and publication as required by law.

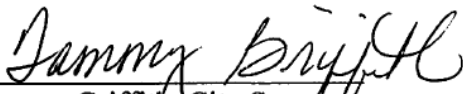
**Sec. 5.05 Proper Notice and Meeting.**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED, ADOPTED AND APPROVED by the City Council of the City of Coahoma, Texas on this the 19th day of September, 2019.**

By:   
Warren Wallace, Mayor

**ATTEST:**

  
Tammy Griffith, City Secretary



