

ORDINANCE NO. 2010-02

AUTHORIZING THE CITY TO DECLARE CERTAIN VEHICLES AS NUISANCES AND HAVE THEM REMOVED FROM THE CITY.

WHEREAS, the City of Ames, Texas is a Type A General Law Municipality having the right to declare certain vehicles as nuisances; and

WHEREAS, the City Council of the City of Ames, Texas recognizes that junk vehicles within the City should be removed for the good of the public; and

WHEREAS, the City Council of the City of Ames, Texas shall have the right to declare all junk vehicles within the City as public nuisances; and

WHEREAS, the City Council of the City of Ames, Texas after finding that a vehicle is a public nuisance shall have the authority to remove the vehicle from the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMES THAT:

DIVISION 1. JUNKED VEHICLES

SECTION 1: AUTHORITY

This article is adopted pursuant to the authority provided by the Texas Transportation Code, Chapter 683, and any successor statutes, to establish procedures for the abatement and removal from private or public property or public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

SECTION 2: DEFINITIONS

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

Antique Vehicle. A passenger car or truck that is at least 25 or more years old.

Collector. 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 vehicles for his own use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

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

Inoperative. A motor vehicle that is either mechanically incapable of being driven or that due to mechanical defects, cannot be lawfully operated on public roads. At a hearing, a junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

Junked Vehicle. Any motor vehicle, as defined in V.T.C.A., Transportation Code Section 683.071 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) Seventy-two consecutive hours, if the vehicle is on public property; or
 - ii) Thirty consecutive days, if the vehicle is on private property.

Motor Vehicle. Any motor vehicle subject to registration under the Texas Certificate of Title Act, V.T.C.A., Transportation Code Ch. 501 et seq., except that for purposes of this article a motor vehicle shall include a part thereof, a motor boat, an outboard motor or a vessel subject to registration under the V.T.C.A., Parks and Wildlife Code, Section 1.01 et seq.

Special Interest Vehicle. A motor vehicle of any age that has not been changed from the original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

SECTION 3: ADMINISTRATION; RIGHT OF ENTRY

- a) The code enforcement officer, and other authorized City officials including but not limited to the Mayor are designated as the administrators of this article, except that the removal of vehicles or parts of vehicles from public or private property may be by any other person authorized to do so by the administrators named in this subsection.
- b) Persons authorized in subsection (a) of this section to administer this article may enter upon private property for the purposes specified in this article to examine vehicles or parts of vehicles, to obtain information as to identification of vehicles and to remove or cause the removal of a vehicle or parts of a vehicle declared to be a nuisance pursuant to this article.

SECTION 4: JUNKED VEHICLES DEEMED NUISANCES

A vehicle shall be deemed a Junked Vehicle and deemed a nuisance if it:

- 1) Is detrimental to the safety and welfare of the general public;
- 2) Tends to reduce the value of private property;
- 3) Invites vandalism;
- 4) Creates fire hazards;
- 5) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;
and
- 6) Is detrimental to the economic welfare of the state, by producing urban blight, which is adverse to the maintenance and continuing development of the municipalities in the state.

Such a vehicle is therefore declared to be a public nuisance.

SECTION 5: EXCEPTIONS

This article shall not apply to:

- 1) A vehicle or part of a vehicle 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; or
- 2) A vehicle that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer, junkyard, auto repair facility or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's

property, provided the vehicle and the outdoor storage area are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence constructed of either treated wood or masonry or combination thereof, rapidly growing trees, shrubbery or other appropriate means as prescribed by the city's code of ordinances.

SECTION 6: NOTICE TO ABATE; HEARING; DISPOSAL

- a) Whenever any public nuisance exists in the city, as described in this article, a person authorized in Section 3 to administer and enforce this article shall send written notice by certified mail, with a five (5) day return receipt requested, to the owner or occupant of the private premises or the private premises adjacent to the public right-of-way upon which such public nuisance exists. Such notice shall state the following:
 - 1) The nature of the public nuisance;
 - 2) The nuisance must be removed or abated within ten (10) days after the date on which the notice was mailed; and
 - 3) The recipient of the notice may request a public hearing within ten (10) days of receipt of the notice. Such hearing shall be held before the City Council. At the hearing it shall be presumed that the vehicle is inoperable, unless otherwise demonstrated by the owner.
- b) The notice shall also be sent to the last known registered owner of the junked motor vehicle and any lien holder of record.
- c) If the postal address of the last known registered owner of the junked vehicle is unknown, notice to the last known registered owner shall be placed on the motor vehicle, or if the owner is located, hand delivered.
- d) If any notice is returned undelivered by the U.S. Post Office, official action to abate the nuisance shall be continued not earlier than the 11th day after the date of such return.
- e) No vehicle that has been removed by the city or on behalf of the city under this article may be reconstructed or made operable after it has been removed.
- f) Any order requiring the removal of the vehicle or vehicle part must include a description of the vehicle or vehicle part and the correct identification number and license number of the vehicle, if such information is available at the site.
- g) Any vehicle found to be a public nuisance under this article and ordered to be removed and abated shall not be considered to be abated until such time as the vehicle is removed to an authorized location or restored to such a condition that it no longer constitutes a public nuisance under this article.
- h) If no hearing is requested within the time provided in this section or if a hearing is held and the hearing officer orders that the vehicle be removed and the owner of the vehicle or occupant of the premises shall fail to comply with an order of the court to remove the vehicle shall cause the vehicle to be removed and disposed of in accordance with this article.
- i) If a hearing is requested and, upon order by the City Council that a junked vehicle be removed as a public nuisance, the person authorized to enforce this article shall cause such junked vehicle to be removed from the premises where it is located at the time.
- j) Upon such removal the person authorized to enforce this article shall cause the junked vehicle to be transported to a scrap yard, demolisher or other suitable site where the junked vehicle shall be disposed of as scrap or salvage.

- k) A person authorized to enforce this article may enter private property to examine a vehicle or vehicle part, to obtain information as to the identity of the vehicle or vehicle part and to remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The City Council may issue orders necessary to enforcement of this action.
- l) Upon removal of a junked vehicle under this article, a person authorized to enforce this article shall cause notice to be sent to the state department of highways and public transportation not later than five (5) days after the date of removal. Such notice shall identify the vehicle and shall request the department to cancel the certificate of title to the vehicle.
- m) The city Mayor may arrange for or employ such assistance or means as is necessary to carry out the duties prescribed in this section.

SECTION 7: PENALTY FOR FAILURE TO ABATE OR ALLOW ABATEMENT OF NUISANCE

- a) Whenever a junked vehicle is a public nuisance as defined in Section four (4), any owner or occupant of the premises upon which such nuisance is located who shall fail, refuse or neglect to remove or abate such nuisance or who shall refuse notices as provided in this article or who shall refuse to abide by any order requiring the removal of the vehicle or part of a vehicle commits an offense and upon conviction shall be subject to a fine of \$200 and each day such violation continues to exist shall constitute a separate offense.
- b) Upon conviction under this section, the City Council shall order the abatement and removal of the junked vehicle which is the subject of such conviction upon a finding by the court that such vehicle continues to constitute a public nuisance.

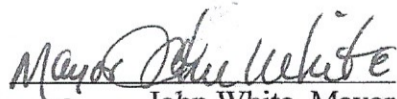
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ames, Liberty County, Texas, this Ordinance shall become effective upon signature by the Mayor, or, if not signed or vetoed by the Mayor, upon expiration of the time for ordinances to become law without the signature by the Mayor.

BE IT FURTHER ORDAINED that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this ordinance are hereby declared severable.

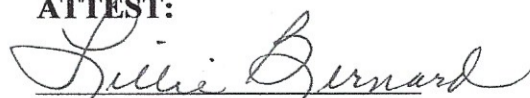
BE IT FURTHER ORDAINED that all ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above and foregoing ordinance shall be in full force and effect from and after its adoption, approval and publication, as provided by law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Ames, this the 17th day of October, 2010.


John White, Mayor

ATTEST:


Lilly Bernard, City Secretary

This document was approved by the Ames Council at a meeting open to the public on Oct 11, 2010 by votes of 3 in favor and zero 0 opposed. The motion to approve the document was made by Council Member Emile Fontenot Jr. and was second by Council Member Louise Donatto. The motion was made carried and was passed.

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City Council Members voting on the above mentioned motion were:

Absent
Jackie P. Miller-Glenn

Janet Scott-Carrier
Janet Scott-Carrier

Absent
Dwight N. Webb

Emile Fontenot, Jr.
Emile Fontenot, Jr. Mayor Pro-Tempore

Louise Donatto
Louise Donatto

Mayor John White
Mayor John White

ATTEST:

Lillie Bernard
Lillie Bernard City Secretary