

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALLSVILLE, TEXAS, FOR THE ABATEMENT AND REMOVAL OF JUNKED VEHICLES

WHEREAS, the City Council of the City of Hallsville, Texas, finds that there is an increasing incident of persons storing, parking, and accumulating junk, unused, partially dismantled, or non-operating motor vehicles, house trailers, or tractor trailers, or new or used parts thereof, on public alleys, street rights of way, street easements, drainage easements, water easements, sewer easements, and on premises primarily used or zoned for any type of residential purpose in the City of Hallsville; and

WHEREAS, this causes continuing danger and threats to the health, safety, and welfare of the citizens of the City of Hallsville;

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

I.

(a) The term "junked vehicle" that is self-propelled and meets both of the following criteria:

- (1) The vehicle does not have lawfully attached to it:
 - a. an unexpired license plate; or
 - b. a valid motor vehicle inspection certificate; and
- (2) The vehicle is:
 - a. wrecked, dismantled or partially dismantled, or discarded;
or
 - b. inoperable and has remained inoperable for more than 72 consecutive hours if the vehicle is on public property; or inoperable and has remained inoperable for more than 30 consecutive days if the vehicle is on private property.

(b) Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and

safety of minors, and are 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 are therefore declared to be a public nuisance.

(c) It shall be unlawful for a person to maintain a public nuisance as determined under this section..

(d) Whenever such public nuisance exists on private property within the city, in violation of this section, the chief of police or hi/her duly authorized agent shall give not less than ten (10) days written notice stating the nature of the public nuisance and that it must be removed and abated within ten (10) days and that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be mailed by certified mail or registered mail with a five-day return requested to the last known registered owner of the junked vehicle, any lienholder of record, and the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undeliverable by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than the eleventh day from the date of such return.

(e) Whenever such public nuisance exists on public property or on a public right-of-way in violation of this section, the chief of police or his/her duly authorized agent shall give not less then ten (10) days written notice stating the nature of the public nuisance and that it must be removed or abated within ten (10) days and that a request for a hearing must be made before expiration of said ten-day period, such notice to be mailed, by certified mail or registered mail with a five-day return requested, to the last known registered owner of the junked vehicle, any lien holder of record, and the owner or occupant of the public premises or to the owner or the occupant of the premises adjacent to the right-of-way whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than the eleventh day from the date of such return.

(f) After a motor vehicle has been removed under the terms and provisions of this section, it shall not be reconstructed or made operable.

(g) In the event any party to whom notice is directed under the provisions of this section shall in writing request a public hearing prior to the removal of the vehicle or

part thereof as a public nuisance, such public hearing shall be held before the city manager or his/her duly authorized agent, not earlier than the eleventh day after service of notice to abate the nuisance. At the hearing, the junked vehicle is presumed to be inoperable unless the owner demonstrates otherwise.

(h) In the event, after public hearing, (or after the time for requesting a hearing has expired without request, and any extended period of time for notice as authorized herein has likewise expired), the city manager or his/her duly authorized designee shall determine that such vehicle or part thereof constitutes a public nuisance, he/she may order the removal of such vehicle or part thereof, which order shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at that site.

(i) Upon the issuance of the order referred to in paragraph (h) hereof, the chief of police or his/her duly authorized agent, shall go upon the premises specified in such order and remove such vehicle or part thereof from the premises to scrap yard, demolishers or any suitable site designated by the city.

(j) Within five days after the date of removal of such vehicle or part thereof, the chief of police or his/her duly authorized agent shall give notice to the state highway department of such removal identifying the vehicle or part thereof.

(k) The provisions of this section shall not apply to:

(1) Unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his private property, provided that the vehicles in the outdoor storage areas are maintained in an orderly manner, 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.

(2) For purposes of this Ordinance, an "antique vehicle" is a passenger car or truck that is at least 25 years old. For purposes of this Ordinance, a "special interest vehicle" is 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.

(3) For purposes of this Ordinance, "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 his own use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

(l) All of the procedures set forth in this section shall be carried out by salaried, full-time employees of the city except that the removal of vehicles or parts thereof from property may be by any other duly authorized person.

(m) The chief of police, his/her duly authorized agent, or any person authorized by the city to administer the provisions of the procedures set forth in this section may enter upon private property for the purposes specified herein to examine vehicles or parts thereof, obtain information as to the identity of the vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant hereto. The municipal court of the city shall have the authority to issue all orders necessary to enforce any procedures set forth in this section.

(n) If the public nuisance is not removed and abated and a hearing not requested within the ten (10) day period provided by subsections (d) and (e) of this section, a complaint may be filed against the party violating this section in the municipal court of the city.

(o) Nothing in this section shall affect any statute or ordinance that permits immediate removal of a vehicle left on public property which constitutes an obstruction to traffic.

(p) Each individual violation of this section is a misdemeanor and, upon adjudication of guilt, a fine not to exceed \$2000.00 shall be assessed against such violator. Each continuing day of each violation shall be deemed a separate offense for which a separate fine may be assessed. The city council hereby dispenses with the requirement of establishing a culpable mental state in order to prove a violation of this section.

(q) The relocation of a junked vehicle to another location in the city after a proceeding for the abatement and removal of the junked vehicle has commenced has no

effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

II.

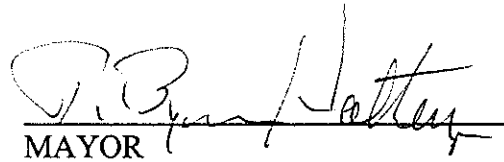
If a junked motor vehicle, as defined in this ordinance, has been situated on the private property of another, without such person's permission for a period of 60 days longer, this fact shall be prima facie evidence that the owner of said vehicle has abandoned the same.

III.

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 AND APPROVED the 10th day of OCTOBER, 2006.

PASSED AND APPROVED the _____ day of _____, 2006.


MAYOR

ATTEST:


CITY SECRETARY

(City Seal)