

ORDINANCE NO. O-85-12-1

AN AMENDMENT TO AN EXISTING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NIXON, TEXAS DEFINING "JUNKED VEHICLES" DECLARING THE SAME TO BE PUBLIC NUISANCES, WITH CERTAIN EXCEPTIONS, PROVIDING FOR THE ABATEMENT OF SUCH PUBLIC NUISANCES; PROVIDING FOR THE ASSESSMENT OF COSTS OF ABATEMENT IN CERTAIN CIRCUMSTANCES, PROVIDING FOR THE FIXING OF A LIEN FOR THE COSTS OF ABATEMENT, AND PROVIDING FOR THE DISPOSITION OF ANY JUNKED VEHICLES IMPOUNDED IN ACCORDANCE WITH THE TERMS HEREOF; PROVIDING A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF ALL EXISTING ORDINANCES EXCEPT THOSE IN CONFLICT HEREWITH; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it has come to the attention of the City Council of the City of Nixon, Texas that it is necessary and reasonable for the City to include an amendment to a previously ordained regulation pursuant to ordinance number O-85-12-1 concerning the placing, location and regulation of junked vehicles within the City and that the present and future uses of property are such that it is reasonably necessary for the existing regulations to be revised by including an amendment to said regulations in order to promote and preserve the health, safety, morals, and general welfare of the community; and

WHEREAS, residential citizen concerns and the current number of existing Recreational Vehicles within the city limits of the City of Nixon, Texas has created the necessary and immediate need to regulate the placement and location of junked Recreational Vehicles as defined by Ordinance number O-85-12-1 and its amendments, present and future. Such placement regulations currently do not exist for the City of Nixon, Texas and said regulations are necessary to promote and preserve the health, safety, morals and general welfare of the community; and

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

THAT the attached amendment to Ordinance No. O-85-12-1 shall constitute as an amendment to current City of Nixon "Junked Vehicle" ordinance and regulations,

subject to future amendment, and said amendment and the original Ordinance No. O-85-12-1 shall govern the uses of property within the City:

SECTION I. DEFINITIONS

As used herein the following words and phrases shall have the meanings set forth adjacent to them:

- (a) Junked Vehicle: The term "Junked Vehicle" shall mean any vehicle or Recreational Vehicle that does not have lawfully affixed thereto both a valid Texas License Plate or plates and a valid Texas Department of Public Safety Motor Vehicle Inspection Certificate, if required by Texas law, and the condition of which is one or more of the following: Wrecked, partially or wholly dismantled, inoperative, abandoned, non-mobile, deteriorating, inhabitable, or discarded. Recreational Vehicle is defined as any camp trailer, travel trailer, or fifth wheel designed to provide temporary living quarters for recreational camping or travel use, constructed with integral wheels to make mobile and/or towable by a motor vehicle.

SECTION VIII. PENALTY

The violation of any provision of this Ordinance relating to the maintaining of a public nuisance as described herein or in permitting or allowing such public nuisance to exist shall be punished by a fine not exceeding \$500.00, and each day's violation thereof shall be, and is hereby declared to be a distinct and separate offense and punishable as such.

SECTION IX. EFFECTIVE DATE

This ordinance shall take effect upon its passage and publication in accordance with the law.

SECTION X. REPEALER

Any ordinance or parts of ordinances in conflict with this ordinance are herewith repealed to the extent that they are in conflict.

SECTION XI. SEVERABILITY

If any of the provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION XII. 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 the Open Meetings Act of the Texas Government Code.

PASSED AND APPROVED on this 16th day of July 2012.

CITY OF NIXON, TEXAS

By: Mary Blangh
Mayor

ATTEST:

Judy Jones
City Secretary

APPROVED AS TO FORM:

Eduardo Escobar
Eduardo "Eddie" Escobar, City Attorney

AN ORDINANCE

AN ORDINANCE OF THE CITY OF NIXON, TEXAS, DEFINING "JUNKED VEHICLES" DECLARING THE SAME TO BE PUBLIC NUISANCES, WITH CERTAIN EXCEPTIONS, PROVIDING FOR THE ABATEMENT OF SUCH PUBLIC NUISANCES; PROVIDING FOR THE ASSESSMENT OF COSTS OF ABATEMENT IN CERTAIN CIRCUMSTANCES, PROVIDING FOR THE FIXING OF A LIEN FOR THE COSTS OF ABATEMENT, AND PROVIDING FOR THE DISPOSITION OF ANY JUNKED VEHICLES IMPOUNDED IN ACCORDANCE WITH THE TERMS HEREOF; PROVIDING FOR THE DISPOSITION OF ANY JUNKED VEHICLES IMPOUNDED IN ACCORDANCE WITH THE TERMS HEREOF; PROVIDING FOR THE DISPOSITION OF ANY JUNKED VEHICLES IMPOUNDED IN ACCORDANCE WITH THE TERMS HEREOF; PROVIDING A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF ALL EXISTING ORDINANCES EXCEPT THOSE IN CONFLICT HEREWITH; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there are, or may be in the future, junked vehicles left about the City other than in junk yards or other appropriate places; and

WHEREAS, such condition tends to interfere with the enjoyment of and reduce the value of private property, invite plundering and theft, create fire hazards and other safety and health hazards to children as well as adults, interfere with the comfort and well being of the public, and create, extend and aggravate urban blight; and

WHEREAS, adequate protection of the public health, safety and welfare requires that such conditions be abated,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NIXON, TEXAS, DOES HEREBY ORDAIN:

SECTION I. DEFINITIONS.

As used herein the following words and phrases shall have the meanings set forth adjacent to them:

(a) Junked Vehicle: The term "Junked Vehicle" shall mean any vehicle which does not have lawfully affixed thereto both a valid Texas License plate or plates and a valid Texas Department of Public Safety Motor Vehicle Inspection Certificate, and the condition of which is one or more of the following: Wrecked, partially or wholly dismantled, inoperative, abandoned, or discarded.

(b) Person: The word person as used herein shall mean any individual, firm, partnership, association, corporation, company, or organization of any kind.

(c) City: The term "City" as used herein shall mean the City of Nixon, Texas.

SECTION II. JUNKED VEHICLES DECLARED PUBLIC NUISANCE:
EXCEPTIONS:

The location or presence of any junked vehicle or junked vehicles on any lot, tract or parcel of land or any portion thereof, occupied, or unoccupied, improved or unimproved, within the City of Nixon shall be deemed a public nuisance or to permit or allow the same to exist on his property or on the property of another; provided that this section shall not apply with regard to a junked vehicle or junked vehicles in an enclosed building; a junked vehicle or junked vehicles on the premises of a business enterprise operation of such business enterprise; a junked vehicle or junked vehicles in an appropriate storage place or depository maintained in a lawful place and manner by the City; or to vehicles in operable condition specially adapted or constructed for racing or operation on privately owned drag strips or raceways.

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SECTION III. ORDER OF ABATE;

Whenever any such public nuisance exists in the City in violation of this ordinance, notice of such violation shall be given, as applicable, to the owner of such vehicle, or the owner or occupant of the premises upon which such vehicle is situated, or to all such persons, as herein-after provided. Such notice shall be in writing, shall specify the violation and its location, shall specify the corrective measures required, shall provide that any owner of such vehicle, or owner or occupant of such premises, may protest the determination that such vehicle is a nuisance by filing written notice thereof with the City Manager within ten days, and shall provide that failure to file such protest, within ten days shall constitute consent to the removal and impoundment of such vehicle. A copy of the notice shall be served upon the owner or occupant of the premises and/or the owner of the vehicle, either by personal service; by mailing a copy, certified mail, return receipt requested, to the last known address of such person; or by attaching such copy to the vehicle in question. Any notice attached to any vehicle need not name the owner thereof, or the owner or occupant of the premises where it is situated, and any such notice attached to a vehicle shall constitute notice to the owner of the vehicle and to the owner and occupant of the premises where such vehicle is located.

SECTION IV. ABATEMENT OF NUISANCE;

If the owner or occupant of the premises, or the owner of such vehicle, fails, neglects or refuses to either file notice of protest or to comply with the terms or any notice issued under protest or to comply with the terms of any notice issued under the provisions of the preceding section, within ten days after service of such vehicle, appropriate City officials shall abate such public nuisance by removing the junked vehicle from its location and impounding the same. All expenses incurred in the abatement of such nuisance, and costs of preserving such vehicle prior to final disposition, shall be charged against the owner, or owners, of the junked vehicle payable in Nixon, Gonzales County, Texas, and the City shall have a privileged lien on such junked vehicle, together with ten per cent (10%) interest on the delinquent amount from the date of impounding such vehicle.

SECTION V. PROCEDURE IN EVENT OF PROTEST:

Should any person file a protest, in accordance with Section IV hereof, of the determination that any vehicle constitutes a nuisance under the terms of this Ordinance, the City Manager shall place such protest on the agenda of the City Council, give notice to the protestant of the time and place of the next meeting of the City Council, and state in such notice that the City Council will make a determination as to whether the protestant's vehicle constitutes a nuisance under the terms of this Ordinance, and shall invite the protestant to appear in person or by any attorney and present the reasons for his protest. If, after hearing the evidence and making such investigation as the Council deems necessary, the Council shall determine that the vehicle in question constitutes a nuisance, the Council may order the same removed from the premises, or, it may recommend prosecution in Corporation Court in accordance with the penal provisions hereof.

SECTION VI. OWNER MAY ACQUIRE POSSESSION:

The bona fide owner of any such junked vehicle or junked vehicles which have been impounded in accordance with the provisions of this Ordinance may acquire possession of such junked vehicle or junked vehicles by paying the costs of abatement as shall have been computed in accordance with the preceding section and by paying a reasonable storage charge based upon the period of time such junked vehicle or vehicles have been impounded.

SECTION VII. ABANDONMENT AND SALE; SEVERANCE:

In the event that possession by the bona fide owner thereof of any junked vehicle or junked vehicles impounded in accordance with the provision hereof is not acquired within ninety days from the date of such impoundment, such junked vehicle or junked vehicles shall be deemed to have been abandoned and may be sold by the City. Proceeds from any such sale shall first be applied to reduce or satisfy the storage charges computed in accordance with the above section, and any amount of such proceeds then with the above section, and any amount of such proceeds then remaining shall be applied to reduce or satisfy the lien perfected. Such lien shall remain in full force and effect with respect to any portion of the costs of abatement remaining unsatisfied.

SECTION VIII. PENALTY:

The violation of any provision of this Ordinance relating to the maintaining of a public nuisance as described herein or in permitting or allowing such public nuisance to exist shall be punished by a fine not exceeding \$200.00, and each day's violation thereof shall be, and is hereby declared to be a distinct and separate offense and punishable as such.

SECTION IX. EFFECTIVE DATE:

This ordinance shall become effective and be in full force and effect from and after its passage.

PASSED AND APPROVED this the 10 day of Dec,
1985.

W.G. Millington D.C.
Dr. W.G. Millington
Mayor

ATTEST:

James E. Talley
James E. Talley
City Secretary