

ORDINANCE NO 2019-002

ADOPTION OF AN ORDINANCE OF THE CITY OF TODD MISSION, TEXAS FOR THE REGULATION AND DISPOSITION OF JUNKED VEHICLES; DECLARING JUNKED VEHICLES A NUISANCE; PROVIDING FOR NOTICE AND A PUBLIC HEARING; AUTHORIZING THE REMOVAL AND DISPOSAL OF JUNKED VEHICLES; PROVIDING FOR A PENALTY IN THE AMOUNT OF \$200.00 FOR VIOLATION OF ANY PROVISION OF THE ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; CONTAINING A SEVERABILITY CLAUSE; AND MAKING FINDINGS AND PROVISIONS RELATIVE TO THE SUBJECT

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WHEREAS, dilapidated and junked vehicles are detrimental to the public health, safety and welfare; and

WHEREAS, the City of Todd Mission, Texas ("City") desires to adopt regulations and procedures for the control and abatement of junked vehicles, as authorized by Chapter 683, Subchapter E, of the Texas Transportation Code; Now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TODD MISSION, TEXAS:**

I.

The facts and recitations contained in the preamble of this Ordinance are found to be true and correct.

II.

The City hereby adopts the following ordinance to read as follows:

## **JUNKED VEHICLES**

Section 1. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Antique vehicle* means a passenger car or truck that is at least 25 years old.

*Junked vehicle* means a vehicle that is self-propelled and:

- (1) Does not have lawfully attached to it
  - a. An unexpired license plate; and
  - 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:
    1. 72 consecutive hours, if the vehicle is on public property; or
    2. 30 consecutive days, if the vehicle is on private property.

*Motor vehicle collector* means a person who:

- (1) Owns one or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of an antique or special interest vehicle or part 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.

Section 2. Junked Vehicle Declared a Public Nuisance. A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

- (1) Is detrimental to the health, safety and welfare of the public;
- (2) Tends to reduce the value of private property;
- (3) Invites vandalism;
- (4) Creates a fire hazard;
- (5) Is an attractive nuisance creating a hazard to the health and safety of minors;
- (6) Produces urban blight adverse to the maintenance and continuing development of the City; and
- (7) Is a public nuisance.

Section 3. Offense. A person commits an offense if the person maintains a junked vehicle or vehicle part in a manner declared a public nuisance. An offense under this Ordinance is a misdemeanor punishable by a fine in an amount not to exceed \$200.00.

- A. Upon conviction, the person shall be ordered to abate and remove the nuisance.
- B. Each day of violation shall constitute a separate offense.

Section 4. Procedures for Abatement and Removal of Public Nuisance.

A. Notice.

- (1) Prior to the abatement and removal of the public nuisance, the City shall provide not less than 10 day's written notice of violation of this Ordinance. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:
  - a. the last known registered owner of the vehicle;
  - b. each lienholder of record of the vehicle; and
  - c. the owner or occupant of:
    1. the property on which the vehicle is located; or
    2. if the vehicle is located on a public right-of-way, the property adjacent to the right-of-way.
- (2) The notice must state that:

- a. the nuisance must be abated and removed not later than the 10<sup>th</sup> day after the date on which the notice was personally delivered or mailed;
  - b. a public hearing may be requested by the person to whom notice is provided; and
  - c.. any request for a hearing must be made before the 10-day period expires.
- (3) If the post office address of the last known registered owner of the vehicle is unknown, notice may be placed on the vehicle or, if the owner is located, personally delivered.
  - (4) If 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.

B. Request for Hearing. If a hearing is requested by one or more persons to whom notice was provided, the person must send a written request to the Chief of the Police Department of the City of Todd Mission. The Police Chief will forward the request to the Municipal Court for a hearing to determine whether the vehicle or vehicle part is a public nuisance. The Municipal Court will notify the requestor and all persons entitled to notice under subsection A, above, of the date, location and time of the hearing. If the address of persons entitled to notice is not available, such notice may be otherwise delivered or posted in accordance with subsection A.

- (1) The hearing shall be conducted before the Municipal Court not less than 11 days after service of notice to abate the nuisance.
- (2) Following the hearing, if a public nuisance is found to exist, the Municipal Court Judge shall issue an Order requiring the removal of the vehicle, or part thereof, and shall state a time for such removal to be accomplished, which in no event shall exceed 10 days from the date of the hearing. The Order shall further state that if the vehicle or part thereof is not removed within the time specified in the Order, then the Chief of the Police Department or someone acting under his direction, shall cause its removal. The Order shall include a description of the vehicle, or part thereof, and the identification number and license number of the vehicle if the information is available.

- C. No Hearing Requested. If no public hearing is requested as provided in this Ordinance, or if the notice is returned undelivered by the United States Post Office, the Municipal Court Judge shall schedule a public hearing to receive testimony from the public and from City staff of the presence of a public nuisance. The Municipal Court will notify all persons entitled to notice under Subsection A above, of the date, location, and time of the hearing. Said hearing shall be conducted, and an Order issued by the Municipal Court Judge, in the same manner as provided under Subsection B, above.
- D. Removal by City. If the vehicle, or part thereof, remains on the property after its removal is ordered by the Municipal Court, the Chief of the Police Department or his authorized agent shall cause the same to be disposed of by removal to a scrapyard, demolisher, or a suitable site in accordance with section 683.078 of the TEXAS TRANSPORTATION CODE.
- E. No Reconstruction after Removal. A vehicle removed under these procedures shall not be reconstructed or made operable after it has been removed.
- F. Relocation. The relocation of a vehicle that is a public nuisance to another location within the City after the proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
- G. Notice to Texas Department of Transportation. Notice shall be given to the Texas Department of Transportation not later than the 5th day after the date of removal of the vehicle or vehicle part. The notice must identify the vehicle or vehicle part.

Section 4. Exemptions. 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 for the street or other public or private property; 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 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, and not stacked or arranged so that they are not screened from ordinary public view;
- b. Not a health hazard; and
- c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery, with the following requirements:
  1. A solid barrier fence that is at least 6 feet in height of a natural or earth-tone color. If greater height is necessary to screen the junked vehicles from ordinary public view, such is required; or
  2. Planting fast growing plants (shrubs, trees or reeds) which are well maintained and are kept at a height of a least 6 feet, except that where a greater height is necessary to screen the junked vehicles from ordinary public view, they will be maintained at that height.

Section 5. Authority to Enforce. The Chief of the Police Department, the Code Enforcement Officer or other regular salaried, full-time employee of the City may enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity and ownership of the vehicle, and remove or request the removal of a vehicle or vehicle part that constitutes a nuisance, except that any authorized person may remove the nuisance, including a contractor hired by the City. The Municipal Court may issue orders necessary to enforce this Ordinance.

Section 6. Removal of Vehicle as Obstruction to Traffic. This Ordinance does not affect any law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

### III.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of any conflict are hereby repealed.

IV.

In the event any section, paragraph, subdivision, clause, phrases, 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 of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City Todd Mission, 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.

PASSED, APPROVED, AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2019..

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Mayor

ATTEST:

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City Secretary