

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. 108

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS, DEFINING THE TERM JUNKED VEHICLE; DECLARING JUNKED VEHICLES TO A PUBLIC NUISANCE AND UNLAWFUL TO MAINTAIN WITHIN THE CORPORATE LIMITS OF THE CITY; PROVIDING METHOD FOR REMOVAL AFTER NOTICE AND HEARING; PROVIDING CERTAIN EXEMPTIONS; PROVIDING THAT SUCH ORDINANCE SHALL BE PRINTED AS ARTICLE 9-4 OF CHAPTER 9 TO FACILITATE ITS INCLUSION IN THE CODE OF ORDINANCES OF THE CITY WHEN SUCH CODE IS ADOPTED; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWRY CROSSING, TEXAS:

SECTION 1. THE JUNK VEHICLE CODE

The following Article is hereby adopted as the Junk Vehicle Code of the City of Lowry Crossing to read as follows:

ARTICLE 9-4 JUNK VEHICLES

Sec. 9-4-1 DEFINITIONS

Antique Vehicle means a passenger car or truck that is at least 35 years old. (Ord. *)

Motor Vehicle Collector means a person who:

- A. owns one (1) or more antique or special interest vehicles; and
- B. acquires, collects or disposes of an antique or special interest vehicle or part of them for personal use to restore and preserve an antique or special interest vehicle for historic interest. (Ord. *)

Junked Vehicle means a vehicle that is self-propelled and inoperable and:

- A. does not have lawfully attached to it:
 - 1. an unexpired license plate; or
 - 2. a valid motor vehicle inspection certificate;
- B. wrecked, dismantled or partially dismantled, or discarded; or
- C. has remained inoperable for more than forty-five (45) consecutive days. (Ord. *)

Special Interest Vehicle means 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 hobbyist. (Ord. *)

Sec. 9-4-2 JUNKED VEHICLE DECLARED A PUBLIC NUISANCE

A junked vehicle, including a part of a junked vehicle, that is visible from a public place or right-of-way: is detrimental to the safety and welfare of the public; tends to reduce the value of private property; invites vandalism; creates a fire hazard; is an attractive nuisance creating the hazards of the health and safety of minors; produces urban blight adverse to the maintenance and continuing development of municipalities; and is a public nuisance. (Ord. *)

Sec. 9-4-3 UNLAWFUL TO MAINTAIN; DUTY TO REMOVE

- A. It shall be unlawful for any person, owner, agent, occupant or anyone having supervision or control of any real property within the City to maintain a junked vehicle. (Ord. *)
- B. It shall be the duty of any person, owner, agent, occupant or anyone having supervision or control of any real property within the City to remove or cause to be removed from said property any junked vehicle so as to comply with the provisions of this Article. (Ord. *)

Sec. 9-4-4 NOTICE TO ABATE

- A. Whenever a public nuisance exists on private or public property or on the public right-of-way, the City shall notify the owner, if the owner is in possession of the property, or the occupant of the property, to abate or remove the nuisance. (Ord. *)
- B. A notice issued under Subsection (A) must provide not less than 10 days' notice of the nature of the nuisance and must be sent by certified mail with a five 5 day return requested to:
 - 1. the last known registered owner of the nuisance;
 - 2. each lien holder of record of the nuisance; and
 - 3. the owner or occupant of:
 - a. the property on which the nuisance is located; or
 - b. if the nuisance is located on public right-of-way, the property adjacent to the right-of-way. (Ord. *)
- C. The notice must state:
 - 1. the nuisance must be abated and removed not later than the 10th day after the date on which the notice was mailed; and
 - 2. any request for a hearing must be made before that 10-day period expires. (Ord. *)
- D. 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, hand delivered. (Ord. *)

- E. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return. (Ord. *)
- F. If the owner or the occupant of the property fails to either remove and abate the nuisance or to request a hearing within 10 days after service of the notice to abate the nuisance, then the City may cause the removal of the junked vehicle. (Ord. *)

Sec. 9-4-5 PUBLIC HEARING

- A. The owner or occupant of the property on which a public nuisance exists may, within the 10-day period after service of the notice to abate the nuisance, request a hearing before the judge of the municipal court. If a hearing is timely requested, the City shall not remove the junked vehicle until ordered by the judge of the municipal court.
- B. At the hearing, the junked vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. Upon finding that a public nuisance exists, the judge of the municipal court shall order the owner or occupant of the property to remove and abate the nuisance within 10 days. If the owner or the occupant of the property fails or refuses within 10 days, to abate and remove the nuisance, the judge of the municipal court may issue an order that the City shall take possession of the junked vehicle and remove it from the premises. The City shall dispose of the junked vehicle in a manner consistent with State law, and the vehicle shall not be reconstructed or made operable. If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the vehicle's: (1) Description; (2) Vehicle identification number; and (3) License plate number.
- E. A vehicle shall not be reconstructed or made operable after removal.
- F. Notice identifying the vehicle or part of a vehicle shall be given to the Texas Department of Transportation not later than the fifth day after the date of removal.

Sec. 9-4-6 EXEMPTIONS

This Article shall not apply to a vehicle or part:

- 1. that is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property;

2. that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junk yard; 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 outside storage area, if any, are: (a) maintained in an orderly manner; (b) not a health hazard; and (c) screened from ordinary public view by appropriate means including a fence, rapidly growing trees or shrubbery.

Sec. 9-4-7 AUTHORITY TO ENFORCE

Any regular salaried, full-time employee authorized by the City to administer the provisions of this Article may enter private property to examine a public nuisance to obtain information as to identify vehicles and owners thereof and to remove or direct the removal of the nuisance. Removal of a public nuisance may be by any person authorized by the City. The municipal court may issue orders necessary to enforce this Article.

Sec. 9-4-8 SUMMARY REMOVAL

Nothing in this Article shall affect any other law which permits the immediate removal of a vehicle left on public property that constitutes an obstruction to traffic.

Sec. 9-4-9 COMPLAINT

If the nuisance is not removed and abated and a hearing is not requested within the 10 day period, a complaint may be filed in municipal court for maintaining a public nuisance.”

SECTION 4. REPEALING CLAUSE

All parts of ordinances, inconsistent or in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. SEVERABILITY CLAUSE

If any article, paragraph or subdivision, clause 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.

SECTION 6. SAVINGS CLAUSE

An offense committed before the effective date of this ordinance is governed by the prior law and ordinances, as amended, in effect when the offense was committed and the former law is conditioned for this purpose.

SECTION 7. PENALTY CLAUSE

Any person firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the sum of Five Hundred dollars (\$500.00) for each offense; except however, where a different penalty has been established by state law for subsequent violations the penalty shall be that fixed by state law; and every day any offense is continued shall constitute a new and separate offense.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect from and after its passage and publication of the caption, as the law in such cases provides.

DULY ADOPTED by the City Council of the City of Lowry Crossing, Texas, on the May 4th day of May, 1999.

APPROVED:

LT Dillard III
MAYOR

ATTEST:

Sam Soles
CITY SECRETARY

APPROVED AS TO FORM:

Lawrence W. Johnson
CITY ATTORNEY