

CITY OF COOLIDGE
COOLIDGE, TEXAS 76635

ORDINANCE NO. 11-13-01-A

“JUNKED VEHICLE ORDINANCE”

AN ORDINANCE PROVIDING FOR THE IDENTIFICATION AND REMOVAL OF JUNKED VEHICLES AND ASSESSING PENALTIES FOR VIOLATIONS

SECTION 1: PREAMBLE

WHEREAS, the City of Coolidge, Texas finds that a substantial number of wrecked, junked or abandoned and inoperable vehicles are located within the city and that each such vehicle constitutes an attractive nuisance to children or constitutes a safe haven for diseased, injured or otherwise dangerous wild animals or domesticated animals illegally running at large, and thus constitutes a public nuisance dangerous to the health and welfare of the residents of Coolidge.

THEREFORE, the City of Coolidge hereby adopts the following ordinance in the expectation that such public nuisances be eliminated from the city as soon as practicable.

SECTION 2: DEFINITIONS

The following definitions shall apply in this ordinance unless the context clearly indicates or requires a different meaning.

- A. **City.** The City of Coolidge, Texas or any executive or administrative department or sub-unit thereof, including but not limited to, the Mayor and the Coolidge Police Department or any other person acting under their direction or supervision. No judge, court or judicial body or clerk, administrator or secretary thereof is included in this definition.
- B. **Demolisher/Scrap Yard.** Any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to dismantle motor vehicles.
- C. **Junked Vehicle.** Any motor vehicle which:
1. remains inoperable for a continuous period of more than thirty (30) days, regardless whether it has affixed thereto a current registration sticker and valid motor vehicle safety inspection certificate; or
2. is wrecked, dismantled, partially dismantled, or discarded.
- D. **Person.** Any individual, firm, partnership, association, corporation, company or organization of any kind.
- E. **Wrecker/Tower.** Any person whose business is to haul away and dispose of a motor vehicle.

SECTION 3: LOCATION OR PRESENCE OF JUNKED VEHICLES WITHIN CITY DEEMED PUBLIC NUISANCE; SWORN COMPLAINT UPON VIOLATION

A. The location or presence of any junked vehicle on any lot, tract, parcel or land or portion thereof, occupied or unoccupied, improved or unimproved, within Coolidge, when such junked vehicle is visible from a street or other public or private property, shall be deemed a public nuisance and it shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling rendering inoperable, abandoning or discarding a vehicle on the property of any person and it shall also be unlawful for any person to suffer, permit or allow such a vehicle to be placed, located, maintained or exist upon real property owned or occupied by that person.

B. The City shall file, with the municipal court, a sworn complaint alleging any violation.

SECTION 4: STICKER NOTICE TO VEHICLE OWNER TO REMOVE OR ABATE NUISANCE; CONTENTS; AFFIDAVIT OF POSTING

A. Whenever a vehicle that is a public nuisance exists in Coolidge in violation of this ordinance on either occupied or unoccupied private or public property or public right-of-way, the City shall securely affix to such vehicle a visible and brightly colored notice. Such sticker notice shall state the following (all items italicized or underlined are to be hand-written on the sticker notice):

COOLIDGE POLICE DEPARTMENT
[HEARING TO BE HELD ON _____ AT _____ AM/PM]

WARNING

THIS VEHICLE IS CONSIDERED ABANDONED
AND MAY BE IMPOUNDED IF IT IS NOT REMOVED
WITHIN 10 DAYS

DATE _____ TIME _____ AM/PM LICENSE _____
MAKE/MODEL/BODY STYLE _____ VIN _____
OFFICER _____ ID# _____

B. The City shall file with the municipal court an affidavit of posting of the sticker notice which properly identifies the subject vehicle by Vehicle Identification Number (VIN) or License Plate Number (LPN) or both and which states the location of the subject vehicle and the date, time and location that the notice was securely affixed to the subject vehicle and which also states the hearing date and time written on the sticker notice.

SECTION 5: CITATION NOTICE TO REAL PROPERTY OWNER OR OCCUPANT; CONTENTS; SERVICE; FILING

A. Whenever a vehicle that is a public nuisance exists in Coolidge in violation of this ordinance, the City shall give a notice to the owner of the real property or the occupant, if any, of the premises whereon such public nuisance exists or, if such public nuisance exists on a public right-of-way, the notice shall be given to the owner or occupant of the adjacent property. Such notice shall be personally served upon such person. The notice shall be in the form of a citation. The citation notice shall identify the person and the address and the junked vehicle by Vehicle Identification Number

(VIN) or License Plate Number(LPN) or both. It shall identify the ordinance which is being violated by the number 11-13-01-A or as the "Junked Vehicle Ordinance." It shall allege the vehicle is junked or inoperable. It shall state that the violation must be removed within ten days. The citation notice shall also provide that a hearing will be held at 806 Bell St. on a specific date and a specific time. The citation notice shall be signed by the person issuing it. The citation notice shall also be signed by the person receiving it or a notation shall be made indicating why a signature was not obtained.

B. The City shall file with the municipal court a carbon copy of the citation notice, if any.

SECTION 6: PUBLIC HEARING; FINDING AND ORDERS OF JUDGE.

A. The Judge of the municipal court shall hear all cases in which the City has alleged a vehicle to be public nuisance under this ordinance, and shall determine by a preponderance of the evidence whether the subject is a junked vehicle in violation of this ordinance. Such hearing shall not be criminal in nature and shall be as summary as due process and orderly procedure allows. Rules of evidence as in civil suits shall be followed. At the hearing, the subject vehicle is presumed to be inoperable, unless demonstrated otherwise by any person with standing to formally contest the matter.

B. No case shall be delayed or dismissed solely because the owner or occupant of the real property, upon which or adjacent to which such junked vehicle exists, has not been personally served with the citation notice, PROVIDED however, that a preponderance of evidence must show that a sticker notice was affixed to the junked vehicle a minimum of 10 days prior to hearing.

C. AT THE HEARING:

1. The Judge shall first inquire from the City whether the alleged violation has been removed or abated voluntarily and if so, shall dismiss the case as moot;
2. If the alleged violation has not been voluntarily removed or abated, then before the judge shall recognize any person's standing to contest, the judge first examine any person attempting to contest and determine whether the person was served with a citation notice, and if not, shall obtain such person's signature on a declaration of ownership or control over the subject vehicle, otherwise no person shall have standing nor be permitted to formally contest the City's allegations;

3. After hearing evidence and upon finding that the subject vehicle is in violation of this ordinance, the judge of the municipal court shall issue an order directing the city to have the same removed, and the City or its delegate shall take possession of such junked vehicle and remove it from Coolidge at the expense of the owner of record or the person formally contesting as determined in the sound discretion of the judge. Such order shall include a description of the vehicle, and the Vehicle Identification Number(VIN) and License Plate Number (LPN) of the vehicle, if available at the site, and provide that the Texas Department of Transportation shall be notified within 5 days of removal.
4. In addition, upon proof that the subject vehicle was not removed or abated voluntarily and upon proof of service of citation notice to any person, regardless whether such person appeared at the hearing, the judge may order such person to pay a civil fine up to \$500.00 for each such vehicle violating this ordinance for which such person was served with citation notice.

5. In addition the judge may order the person who has signed a declaration of ownership or control over the subject vehicle (which was not removed or abated voluntarily) to pay a civil fine up to \$500.00 for each such vehicle violating this ordinance for which such person signed a declaration of ownership or control.

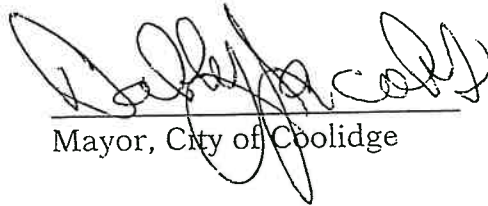
SECTION 7: NOTICE TO TEXAS DEPARTMENT OF TRANSPORTATION

Notice shall be given to the Texas Department of Transportation that a junked vehicle has been impounded within five (5) days after the removal of the junked vehicle under this ordinance, identifying the vehicle or part thereof impounded.

SECTION 8: DISPOSITION OF IMPOUNDED JUNKED VEHICLES

The City its delegate shall dispose of all impounded junked vehicles in such manner as the city council may designate, consistent with state law, provided such vehicles shall not be reconstructed or made operable. Disposal may be by removal, to a scrap yard, demolisher or wrecker service.

READ and APPROVED on first reading this the 13th day of November, 2001.



Mayor, City of Coolidge

Attest:



City Secretary

CASE NUMBER: _____

CITY OF COOLIDGE, TEXAS

§

IN THE MUNICIPAL COURT

vs.

§

OF

_____, Defendant

§

COOLIDGE, TEXAS

**AFFIDAVIT OF POSTING OF STICKER NOTICE
PURSUANT TO COOLIDGE CITY ORDINANCE 11-13-01-A
ALSO KNOWN AS THE JUNKED VEHICLE ORDINANCE**

STATE OF TEXAS

§

COUNTY OF LIMESTONE

§

BEFORE ME, the undersigned authority, personally appeared, _____,
and stated as follows:

"I am over the age of 18 years and otherwise fully capable of making this affidavit and I have full knowledge of all facts contained herein.

"I am employed by the City of Coolidge, Texas and one of my functions is to identify violations of the Junked Vehicle Ordinance and to affix sticker notices and issue citation notices for violations and to testify in court pursuant to said ordinance.

"I affixed a brightly colored sticker notice to a vehicle. The said sticker notice contained the following information and was substantially identical to the following:

COOLIDGE POLICE DEPARTMENT
[HEARING TO BE HELD ON _____ AT _____ AM/PM]

WARNING

THIS VEHICLE IS CONSIDERED ABANDONED
AND MAY BE IMPOUNDED IF IT IS NOT REMOVED

WITHIN 10 DAYS

DATE _____ TIME _____ AM/PM LICENSE _____
MAKE/MODEL/BODY STYLE _____ VIN _____
OFFICER _____ ID# _____

"I WAS / WAS NOT able to identify a responsible real property occupant or owner as described in the said ordinance. I DID / DID NOT issue a citation notice to such person. I HAVE / HAVE NOT filed with this court a carbon copy of the said citation notice together with this affidavit.

"I affirm that all facts stated herein are true and correct."

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on _____

Notary Public

BEFORE JUDGE MAY IMPOSE A FINE ON A PERSON, CITATION NOTICE MUST BE SERVED ON THAT PERSON (OR THAT PERSON MUST SIGN A DECLARATION OF OWNERSHIP OR CONTROL).

CITATION NOTICE – DATE SERVED: _____ / DATE COPY FILED: _____

A DECLARATION OF OWNERSHIP OR CONTROL was signed by a person who was not served with Citation Notice but who formally contested.

-- Attach copy of Declaration -- DATE SIGNED: _____

IN A CASE WHERE THE JUDGE HOLDS MORE THAN ONE PERSON FINANCIALLY RESPONSIBLE, A SEPARATE ORDER MUST BE FILED FOR EACH DEFENDANT.

The subject vehicle is alleged a JUNKED VEHICLE by the City because (check all that apply):

- wrecked, dismantled, partially dismantled, abandoned, discarded
- remained inoperable for more than 30 days
- no valid license plates attached: Date Expired: _____
- no valid inspection sticker attached: Date Expired: _____

The subject vehicle is VISIBLE from (check all that apply):

- a public right-of-way (including an alley)
- a public property (including property owned by a city, school, housing authority or other governmental or quasi-governmental entity)
- a public place (including private property used for business and open to the public)
- a private property (including a private residence)

Municipal Judge imposed FINE upon (check all that apply):

- owner of record
- person served with citation notice
- person who signed a declaration of ownership or control

DATE FINE COLLECTED: _____

DATE CITY FILES SUIT FOR CONTEMPT FOR NON-PAYMENT OF FINE: _____

Municipal Judge ordered junked vehicle TOWED at expense of (check one):

- owner of record
- person served with citation notice
- person who signed a declaration of ownership or control

DATE OF REMOVAL: _____

NOTIFICATION TO TEXAS DEPARTMENT OF TRANSPORTATION: DATE: _____
not later than the 5th day after removal

JUNKED VEHICLE ABATEMENT CHECKLIST OF EVIDENCE AND PROCEDURE

Date of Violation: _____

Address/Location of Violation: _____

Description of Vehicle (Attach Dated Photos):

Make: _____ Model: _____ Year: _____

Color: _____ Lic. Plate: _____ VIN: _____

Additional Descriptive Remarks: _____

Owner of Vehicle (attach information available):

Name: _____

Address: _____

Owner/Occupant of Property Where Violation Located or Adjacent Property if Violation Located on Public Right-Of-Way. (attach copy of tax rolls, utility records, etc.):

Name: _____

Address: _____

Lien holder of Record (if any) on Vehicle:

Name: _____

Address: _____

COURTESY LETTER (NOT REQUIRED) was delivered to the owner or occupant of real property where the junked vehicle is located (or to the owner or occupant of real property adjacent to which the junked vehicle is located, if located on a public right-of-way).

-- Attach copy of letter --

DATE (MAILED) / (DELIVERED): _____

STICKER NOTICE REQUIRED BEFORE JUDGE MAY ISSUE ORDER TO TOW VEHICLE.

STICKER NOTICE affixed to junked vehicle on DATE: _____
(must be more than 10 days before the hearing)

STICKER NOTICE indicated hearing to be held on DATE: _____

AFFIDAVIT OF POSTING OF STICKER NOTICE - DATE FILED: _____

SWORN CIVIL COMPLAINT - DATE FILED: _____

CASE NUMBER: _____

CITY OF COOLIDGE, TEXAS

§ IN THE MUNICIPAL COURT

vs.

§ OF

_____, Defendant

§ COOLIDGE, TEXAS

**DECLARATION OF OWNERSHIP OR CONTROL OF MOTOR VEHICLE
AND WAIVER OF TEN-DAYS NOTICE**

(Declaración del dueño ó persona en control de vehículo motorizado y rechazo de diez días de aviso)

I hereby claim ownership or control over the following described motor vehicle or part thereof:

Yo, con este documento, declaro que soy el dueño ó tengo control del vehículo motorizado (ó parte del mismo) identificado al siguiente:

VIN/Número de Identificación: _____

Lic. Plate No./Número de Placa: _____

Make/Marca: _____

Model/Modelo: _____

Year/Año: _____

Color: _____

This declaration is made in the presence of the Coolidge Municipal Judge, or her agent, and for purposes of this proceeding only. In making this declaration I understand that I waive my right to the 10-days notice period before this hearing and I make myself subject to the jurisdiction of the court for all purposes relating to the above identified motor vehicle or part thereof including the imposition of any fines and penalties pursuant to Coolidge City Ordinance No. 11-13-01-A, otherwise known as the "Junked Vehicle Ordinance."

Esta declaración es hecha ante la Jueza del Municipio de Coolidge. ó su agente, y solo para los propósitos de este procedimiento legal. En hacer esta declaración, yo comprendo que rechazo mi derecho a los 10 días de aviso antes de esta audiencia y me someto a la jurisdicción de esta corte para todos los propósitos relacionados al vehículo (ó parte del mismo) identificado arriba, incluyendo la imposición de multas ó penaltis conforme la Ordenanza del Municipio de Coolidge Numero 11-13-01-A, la cual también es conocida como la Ordenansa contra Vehículos Abandonados ó Inoperables -- "Junked Vehicle Ordinance."

Approved:

Signed/Firmado: _____

Name/Nombre: _____

Address/Dirección: _____

Judge or Clerk of Court

City/Ciudad: _____

