

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF AURORA, TEXAS, ADOPTING NEW REGULATIONS DECLARING JUNKED VEHICLES A NUISANCE; PROVIDING PROCEDURES FOR THE ABATEMENT OF JUNKED VEHICLES; PROVIDING FOR THE DISPOSAL OF JUNKED VEHICLES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Aurora, Texas is a Type A general-law municipality located in Wise County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the City Council has determined that junked vehicles are detrimental to the safety and welfare of the public, tend to reduce the value of private property, and constitutes a nuisance; and

**WHEREAS**, Subchapter E of Chapter 683 of the Texas Transportation Code authorizes a municipality to adopt procedures for the abatement and removal of a junked vehicle from private or public property; and

**WHEREAS**, the City Council desires to adopt regulations governing junked vehicles consistent with Subchapter E of Chapter 683 of the Texas Transportation Code.

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

**Section 1.  
Purpose and Authority**

The procedures set forth herein are adopted for the purpose of promoting the public safety and general welfare and are adopted pursuant to the provisions of Subchapter E of Chapter 683 of the Texas Transportation Code, as they may be amended.

**Section 2.  
Definitions**

For the purposes of this Ordinance, the following definitions shall have the meanings ascribed to them below:

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

*Junked vehicle* means a vehicle that is self-propelled, requires registration under state law and:

- (1) does not have lawfully attached to it:
  - (A) an unexpired vehicle registration sticker; or
  - (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:
    - (i) 72 consecutive hours, if the vehicle is on public property; or
    - (ii) 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 3. Junked Vehicles Declared 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 safety and welfare of the general 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 4. Notice**

(a) Prior to any action being taken to abate and remove a junked vehicle constituting a public nuisance from private property, public property or public right-of-way, not less than 10 days notice shall be given, except as hereinafter provided, to the following parties:

- (1) the last known registered owner of the junked vehicle as shown on the certificate of title;
- (2) any lienholder of record; and
- (3) the owner or occupant of the property upon which the junked vehicle is located or the owner or occupant of the premises adjacent to the public right-of-way on which the junked vehicle is located.

(b) The notice shall be mailed by certified mail with a five day return and shall state the following:

- (1) the nature of the public nuisance;
- (2) that it must be removed and abated not later than the 10th day after the date on which the notice was mailed;
- (3) that a public hearing shall be held before the Municipal Court, along with the date and time of the hearing and the address of the Municipal Court;
- (4) that the recipient of the notice may request the Municipal Court Clerk to reschedule the hearing;
- (5) that the request to reschedule the hearing must be in writing and must be received by the Municipal Court Clerk prior to the date of the hearing;
- (6) that the Municipal Court Clerk has discretion to grant or deny the request to reschedule the hearing;
- (7) that the lack of response by the Municipal Court Clerk to a request to reschedule the hearing constitutes an automatic denial of the request; and
- (8) that failure to abate the nuisance within the 10 day period or to attend the hearing constitutes a waiver by the owner and lienholders of all right, title and interest in the vehicle and their consent to disposal for the junked vehicle under the terms of the Texas Transportation Code concerning the disposal of junked vehicles.

(c) If the post office address of the last known registered owner of the junked vehicle is unknown, notice may be placed on the junked vehicle, or, if the owner is located, personally delivered.

(d) If any notice is returned undelivered by the United States Post Office, the validity of the notice is not affected, and the notice is considered delivered, however, official action to abate the nuisance shall be continued to a date not earlier than 11 days after the date of the return of the notice.

## **Section 5. Hearing**

(a) At the public hearing, the Municipal Court shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, City employees and interested persons relative to such alleged public nuisance. The hearing

may be continued from time to time.

(b) At the public hearing the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(c) Following the public hearing, the Municipal Court shall consider all evidence and determine whether the vehicle, or any part thereof, constitutes a public nuisance as alleged. If the Municipal Court finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this Ordinance have been met, the Municipal Court shall make a written order setting forth his or her findings and ordering that the nuisance be abated.

(d) 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;
- (3) license plate number; and
- (4) a statement that the vehicle will be disposed of in accordance with the Texas Transportation Code.

#### **Section 6. Abatement of Nuisance**

Upon receipt of a written order from the Municipal Court which meets the requirements of Section 5, the Code Enforcement Officer or any duly authorized person may abate such public nuisance by removal and disposal of the junked vehicle.

#### **Section 7. Junked Vehicles Not to Be Made Operable after Removal**

After any junked vehicle has been removed under the authority of this Ordinance, it shall not be reconstructed or made operable again.

#### **Section 8. Notice to Department of Transportation**

No later than the 5th day after the date of removal of a junked vehicle pursuant to this Ordinance, notice must be given to the Texas Department of Transportation. Such notice must identify the vehicle.

**Section 9.  
Relocation of Junked Vehicles**

After the City has sent notice in accordance with Section 4, the relocation of a junked vehicle that is a public nuisance to another location in the City has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

**Section 10.  
Disposal of Junked Vehicles**

Any junked vehicle taken into custody by the City or any duly authorized person pursuant to a provision of this Ordinance shall be disposed of in accordance with applicable provisions of Chapter 683, Subchapter E of the Texas Transportation Code.

**Section 11.  
Application of Ordinance**

The provisions of this Ordinance shall not apply to a vehicle or vehicle part that is:

- (1) completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (2) stored or parked in a lawful manner on private property in connection with the 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;
  - (B) not a health hazard; and
  - (C) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

**Section 12.  
Offense**

(a) In lieu of or in addition to following the abatement proceedings set forth in this Ordinance, the City may pursue the filing of a criminal complaint against the owner or occupant of the property in the Municipal Court for violation of this Ordinance or Chapter 683, Subchapter E of the Texas Transportation Code.

(b) A person commits an offense if the person maintains a public nuisance described by Section 3 hereof. An offense under this Section is a misdemeanor punishable

by a fine not to exceed two hundred dollars (\$200.00). Each day an offense occurs shall constitute a separate offense.

**Section 13.  
Removal With Permission of Owner or Occupant**

If, within 10 days after receipt of notice from the City in accordance with Section 4 to abate the nuisance, the owner or occupant of the premises shall give his written permission to the City for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with provisions of this Ordinance.

**Section 14.  
Right of Removal from Streets Preserved**

Nothing in this Ordinance shall affect ordinances or other laws that permit immediate removal of a vehicle left on public property which is abandoned or which constitutes an obstruction to traffic.

**Section 15.  
Provisions Severable**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 16.  
Provisions Cumulative**

This ordinance shall be cumulative of all provisions of ordinances of the City of Aurora, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed

**Section 17.  
Savings Clause**

All rights and remedies of the City of Aurora are expressly saved as to any and all violations of the provisions of ordinances of the City of Aurora, Texas relating to junked or abandoned vehicles or any other ordinances affecting nuisances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all

pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 18.  
Publication**

The City Secretary of the City of Aurora is directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance in accordance with the provisions of Section 52.011 of the Local Government Code.

**Section 19.  
Publication in Book or Pamphlet Form**

The City Secretary of the City of Aurora is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**Section 20.  
Effective Date**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

**PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

EFFECTIVE: \_\_\_\_\_