

ORDINANCE 2011-009

AN ORDINANCE OF THE TOWN OF TALTY, TEXAS, PROHIBITING JUNKED OR INOPERATIVE VEHICLES TO BE STORED MORE THAN 30 DAYS ON PRIVATE PROPERTY OR 72 HOURS ON PUBLIC PROPERTY. THIS ORDINANCE PROVIDES A DEFINITION OF JUNKED/INOPERATIVE VEHICLES, AND PROVIDING FOR A DECLARATION OF PUBLIC NUISANCE, AND PROVIDING FOR PROCEDURE FOR ABATING THE NUISANCE. THIS ORDINANCE PROVIDES FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE AND PROVIDES FOR AN EFFECTIVE DATE.

SECTION 1. Definition of a junked and/or Inoperative Vehicle:

- A. Displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate or motor vehicle inspection certificate; and
- B. Is:
 - 1. Wrecked, dismantled or partially dismantled, or discarded; or
 - 2. Inoperable and has remained inoperable for more than:
 - a. 72 consecutive hours, if the vehicle is on public property; or
 - b. 30 consecutive days, if the vehicle is on private property.

SECTION 2. Declaration of Public Nuisance:

- A. A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an unattractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the town and is declared to be a public nuisance.
- B. A person commits an offense if that person maintains a public nuisance as determined under this section.
- C. A person who commits an offense under this section is, upon conviction, subject to a fine not to exceed \$200.00, and each and every day such violation continues shall constitute a separate offense. Upon conviction, the municipal court shall order removal and abatement of the nuisance.

SECTION 3. Procedures for Abating Nuisance:

The Town, when desiring to remove and dispose of a junked vehicle as a public nuisance from private property, public property or a public right-of-way, shall comply with the following procedures;

- A. A notice of not less than ten (10) days stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days. And further, a request for a hearing must be before the expiration of such ten (10) day period. The notice must be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record and the owner or occupant of the private premises on which the public nuisance exists. If any notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

- B. A notice of not less than ten (10) days stating the nature of the public nuisance of public property or on a public right-of-way and that it must be removed and abated within ten (10) days; and further, that a request for a hearing must be made before the expiration of such ten (10) day period. The notice must be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record and the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If any notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

- C. A vehicle removed under the provisions of this division shall not be reconstructed or made operative.

- D. Where a hearing is requested by the owner or occupant of the public or private premises, or by the owner or occupant of the premises adjacent to the public right-of-way on which such vehicle is located, within then (10) days after service of the notice to abate the nuisance, a public hearing prior to the removal of the vehicle or vehicle part as a public nuisance must be held before the municipal judge. Should the municipal judge find that such vehicle or vehicle part is public nuisance, he shall enter an order requiring the removal of the vehicle or vehicle part from the public or private property or public right-of-way where it is situated and such order shall include a description of the vehicle and the correct identification number and license number of the vehicle if available at the site.

- E. The Town of Talty shall give notice identifying the vehicle or vehicle part to the state department of highways and public transportation not later than the fifth (5th) day after the date of removal.

- F. Removal of vehicles or vehicle parts from property may be accomplished by any duly authorized person, including wrecker service operators appointed by the Town of Talty.

- G. A person authorized by the Town of Talty to administer the procedures for abatement of junked vehicles or vehicle parts may enter private property to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The municipal court may issue orders necessary to enforce the procedures.

- H. If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period, a complaint may be filed in municipal court for the violation of maintaining a public nuisance.

SECTION 4. **Take Effect Immediately:**

This Ordinance shall take effect immediately from and after its passage and publication of the caption of said ordinance as provided by the state statute.

THIS ORDINANCE IS HEREBY DULY PASSED, APPROVED, AND ADOPTED by the Board of Alderman, of the Town of Talty, Texas on this **15th day of November, 2011.**

APPROVED:

Mayor Larry Farthing

(Town seal)

ATTEST: Town Secretary, Sherry Bagby

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