

ORDINANCE NO. 653(09)

AN ORDINANCE TO AMEND PART 8, CHAPTER 4, SECTIONS 8-401 THROUGH 8-414; TO INCLUDE DEFINITION OF ENFORCEMENT OFFICER; TO INCLUDE OPERABLE UNLICENSED MOTOR VEHICLES WITHIN THE DEFINITION OF JUNK VEHICLE; BY DELETING INCONSISTANT LANGUAGE FROM THE DEFINITION OF JUNK VEHICLE; BY DEFINING OPERABLE CONDITION; BY AMENDING PROHIBITED ACTS TO INCLUDE STORING OPERABLE UNLICENSED VEHICLES; MAKING EXTENSIVE AUTO REPAIRS ON ANOTHERS PROPERTY; BY PROVIDING FOR THE COVERING OF VEHICLES BY TARP; BY AMENDING PERMITS FOR RECONSTRUCTION REQUIRING PERMITS FOR REPAIRS IN EXCESS OF 10 DAYS; RESTRICTING APPLICANT TO PROPERTY OWNER OR LESSEE; PROVIDING FOR PERMIT APPLICANT TO PAY FOR ACTUAL COST OF CERTIFIED MAIL NOTIFICATION; AMENDING PRESUMPTION TO INCLUDE DEFINITION OF JUNK VEHICLE; AMENDING PRESUMPTION TO REMOVE INCONSISTANT LANGUAGE; PROVIDING FOR EVIDENCE OF OPERABLE VEHICLE; AMENDING NOTICE TO REMOVE FROM PUBLIC PROPERTY TO INCLUDE ENFORCEMENT OFFICER; AMENDING NOTICE TO REMOVE FROM PRIVATE PROPERTY TO INCLUDE ENFORCEMENT OFFICER; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER.

Be it ordained by the Mayor and the Council of the City of Moore, Oklahoma that Part 8, Chapter 4: Abandoned, Junk Vehicles, of the Moore City Code be amended as follows:

SECTION 8-401 DEFINITIONS.

The following words, terms and phrases, and their derivations, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicate a different meaning:

1. "Director" means the director of the community development department;
2. **"Enforcement officer" means the community development director, code enforcement officer or any Moore Police Officer.**
2. 3. "Junk vehicle" means any motor vehicle or vehicle, as defined herein, which is wrecked, dismantled, partially dismantled, inoperative, abandoned, **operable unlicensed** or discarded, but does not include motor vehicles or vehicles for which a permit has been obtained pursuant to this chapter for so long as the terms and conditions of the permit are in force and obeyed. ~~but does not include motor vehicles or vehicles parked on private property which display current license tags and safety inspection stickers which are temporarily out of service due to mechanical breakdown or damage if the owner thereof makes diligent efforts to place same back into operable condition, but shall not exceed thirty (30) days;~~
3. 4. "Motor vehicle" means any vehicle which is self-propelled and designed to travel

along the ground or water and the term shall include, but not be limited to, automobiles, boats, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, go-carts, and golf carts;

5. "Operable Condition" means immediately capable of being legally operated on a public street.

~~4.~~ 5. "Private property" means any real property within the city which is not public property;

~~5.~~ 6. "Public property" means any real property which is dedicated to the public use which the federal or any state or municipal government, or any political subdivision thereof, owns or leases, or exercises control and dominion over for public purposes; and

~~6.~~ 7. "Vehicle" means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners, or slides and to transport persons or property or pull machinery and includes, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

~~7.~~ 8. "Vessel" means every device, other than a seaplane on the water, used or capable of being used as a means of transportation on water, including but not limited to personal watercraft.

(Ord. No. 454, 7/18/88, Ord. No. 460, 8/15/88; Ord. No. 360(02), 5/6/02)

SECTION 8-402 PROHIBITED ACTS; NUISANCES DECLARED; EXCEPTIONS.

A. It is unlawful and an offense for any person to park, store or leave, or to permit the parking, storing, or leaving of, any junk vehicle of any kind which is in an abandoned, **operative unlicensed**, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition, whether attended or not, upon any private property within the city for a period of time in excess of ten (10) days.

B. The presence of any junk vehicle or any abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or boat or parts thereof, on private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter.

C. It shall be unlawful to paint any vehicle, motor vehicle, automobile, or boat in any area of the City with a residential zoning classification as designated in Chapter 12 of the Moore Municipal Code (1991) referred to as the Land Development Code of the City of Moore.

D. The provisions of Subsections A and B shall not apply to any vehicle or motor vehicle:

1. Enclosed within a building on private property;
2. Held in connection with a lawful business enterprise which is properly

operated as such business enterprise in the appropriate zone, pursuant to the zoning provisions of this code;

3. In operable condition which is not a junk vehicle as defined herein; or

E. The provisions of Subsections C shall not apply to any vehicle, motor vehicle, automobile, or boat held in connection with a lawful business enterprise which is properly operated as such business enterprise in the appropriate zone, pursuant to the zoning provisions of this code.

F. It shall be unlawful for the owner of a vehicle to make extensive auto repairs on the property of another.

G. Any tarp, cloth, canvas or other similar covering shall be allowed to cover vehicles not meeting the definition of “junk” or “abandoned” as defined herein. However, such covering shall be kept in good condition at all times and free from significant tears and holes.

(Ord. No. 454, 7/18/88; Ord. No. 460, 8/15/88; Ord. No. 254(99), 4/5/99)

SECTION 8-403 PERMITS FOR RECONSTRUCTION/REPAIR OF VEHICLES.

A. Any person desiring to:

1. Reconstruct; or

2. Make repairs to an inoperable vehicle or motor vehicle, for a period in excess of ~~thirty (30)~~ **ten (10)** days may, upon making application to the city, payment of an application fee, and compliance with the terms of a permit, **make repairs to keep such vehicle on a cement, asphalt or other sealed driveway or space; and keeping such vehicle in a wholly enclosed garage or other wholly enclosed structure between the hours of ten (10:00) p.m. and seven (7:00) a.m. the following day** pursuant to the terms of the permit.

B. The application shall state that the owner, only, of such vehicle or motor vehicle seeks to have a permit issued, permitting such vehicle or motor vehicle to be on private property, **owned or leased by the vehicle owner**, within the city in an inoperable, unlicensed or untagged condition for a specific period of time. All applications shall state with specificity how the reconstruction or repairs shall be accomplished and contain deadlines for the completion of each stage, which shall become part of the permit.

~~C. No permit may be issued without opportunity for public hearing unless the person seeking such permit obtains the written consent of eighty percent (80%) of the owners of all private real property within three hundred (300) feet of the place which the vehicle of motor vehicle is proposed to be kept according to the county treasurer's records.~~

~~D. Any consent from nearby private real property owners shall state that a permit is being sought for the purpose of reconstructing or repairing a described vehicle or motor vehicle.~~

~~E. If the applicant is unable to obtain the consent of eighty percent (80%) of the nearby~~

~~property owners pursuant to this section, the applicant may file a completed application and post the application fee, and the city will thereafter give notice by certified mail, return receipt requested, of the application to the owners of all private real property within three hundred (300) feet of the place where the applicant proposes to keep the vehicle or motor vehicle, advising such property owners of the application and of their right to file written objections within fifteen (15) days of the mailing. The applicant shall advance to the city the costs of any mailing up to a maximum of Fifty Dollars (\$50.00).~~

~~F. Within three (3) days of the expiration of the time for objections to the issuance of a permit to be filed, the city's director shall appoint a board of three (3) members to consider, in a public hearing held within seven (7) days, any objections which may have been filed, and to make a recommendation to the director.~~

~~G. After any hearing set forth in above, the director shall forthwith determine whether or not the permit should be issued, and as soon thereafter as is practicable, enter an order approving or disapproving such permit.~~

~~H. If the applicant obtains the consents described in Subsection C above, or if no objections are filed pursuant to Subsection E above, the director shall cause a permit to be issued, unless the deadlines set forth in the application are unreasonable, in which case the applicant shall be provided a hearing pursuant to this section.~~

~~I. C. No permit shall be issued unless the applicant agrees in the application, to allow the city to abate any violation of the terms of any permit within ten (10) days of the mailing by certified mail of a written demand to do so.~~

~~J. D. Initial permits for any vehicle or motor vehicle shall be issued for a maximum period of six (6) months, and may be extended for periods not to exceed six (6) months each upon successful completion of a full application process for each and every renewal period.~~

~~K. E. No permit shall be in force as to more than one person or one residence at any time.~~

~~L. F. Such vehicle or motor vehicle for which a permit has been issued shall prominently display a sticker to be provided by the city, indicating the permit number and its date of expiration. The sticker may be physically inspected without notice by any officer of the city between the hours of 9:00 A.M. and 5:00 P.M., during weekdays, and the right to inspect shall be a condition of the issuance of a permit.~~

~~M. G. Any permit may be revoked by the director upon reasonable notice and opportunity for a hearing, if the application contains any material falsehood, or if any purported consent filed therewith is fraudulent.~~

~~N. H. A permit may be revoked by the director upon reasonable notice and opportunity for a hearing, if any of the terms of the permit are not complied with.~~

(Ord. No. 460, 8/15/88)

SECTION 8-404 PROCEDURES FOR ABATEMENT.

The provisions for abatement of "public nuisance" contained in Sections 8-101 through 8-119 of this code shall not apply to junk vehicles or to those which are in abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition, whether attended or not, upon any public property within the city for a period of time in excess of twenty-four (24) hours. The notice, hearing and abatement shall be pursuant to the procedures described herein for public nuisance on public property.

(Ord. No. 454, 7/18/88)

SECTION 8-405 PRESUMPTION OF ABANDONED, ~~MENT~~ JUNK VEHICLE

A rebuttable presumption shall exist that vehicles have been abandoned **or fall within the definition of a junk vehicle** when:

1. Weed or grass undergrowth would indicate to a reasonable person that the vehicle has not been moved, thereby permitting such growth to occur; **or**
2. One or more wheels are flat or missing ~~and~~ **or** the vehicle or boat displays an expired license; ~~or inspection tag~~; **or**
3. Portions of the vehicle which are needed for its **street legal** operation or control are missing; **including but not limited to missing, broken, or inoperable headlights, taillights, and/or turn signals**; **or**
4. The city has received reports from others as to the length of time such vehicle has been standing in one place without being moved, or that parts are being taken from or added to such vehicle, indicating a salvage or garage operation; **or**
5. Evidence exists that provisions of this code pertaining to zoning or to junk and salvage yards are being violated.

Provided, however, the owner/operator may rebut the presumption by driving the vehicle a distance of at least thirty (30) feet on a public street in the presence of an Enforcement Officer.

(Ord. No. 454, 7/18/88)

SECTION 8-406 NOTICE TO REMOVE FROM PUBLIC PROPERTY.

Whenever it comes to the attention of the director **or enforcement officer** that any junk vehicle, as defined herein, exists as a public nuisance in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the event that there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. A written, public nuisance "Notification to Remove" shall be placed on the vehicle advising the owner of the violation of city code and of the twenty-four (24) hours to remove the nuisance from the public property. Concurrent with the abatement notice placed on the vehicle or motor vehicle, the owner of the vehicle or motor vehicle ~~shall~~ **may** be issued a citation. Failure to remove the vehicle or motor vehicle shall be an

offense, and shall be punishable as provided in Section 1-108 of this code.
(Ord. No. 454, 7/18/88)

SECTION 8-407 RESPONSIBILITY FOR REMOVAL FROM PUBLIC PROPERTY.

Upon proper notice and opportunity to be heard, the owner of the junk vehicle or other abandoned, wrecked, dismantled, or inoperative vehicle or boat, on public property shall be liable for all expenses reasonably incurred by the removal and disposition. (Ord. No. 454, 7/18/88)

SECTION 8-408 NOTICE TO REMOVE FROM PRIVATE PROPERTY.

A. The ~~director or his designee~~ **enforcement officer** shall give notice of removal to the owner or occupant of the private property where any junk vehicle or any abandoned, wrecked, dismantled or inoperative vehicle or boat is located at least ten (10) days before the time set for compliance. ~~It shall constitute sufficient notice when a copy of a Notice to Remove is posted in a conspicuous place upon the private property upon which the vehicle or boat is located.~~ **Minimum standards of Due Process require that administrative proceedings which may directly and adversely affect legally protected interests, be preceded by notice calculated to provide knowledge of the exercise of adjudicative power and an opportunity to be heard. Notice will be by certified mail addressed to the vehicle owner and owner of the private property, if different from the vehicle owner, return receipt requested. When certified mail is returned unclaimed, a reasonable effort shall be made to determine if another address for the vehicle and/or property owner may be found before undertaking removal.**

B. The Notice to Remove shall contain the demand for removal within ten (10) days, and the Notice to Remove shall state that upon failure to comply with the Notice to Remove, the city shall prosecute a criminal complaint for failure to abate the nuisance or undertake such removal with the cost to be levied against the owner of the junk vehicle or the occupant of the property.

(Ord. No. 454, 7/18/88)

SECTION 8-409 HEARING.

A. Any person to whom any Notice to Remove is directed pursuant to the provisions of this chapter or any other interested party, or any duly authorized agent thereof, may file a written request for hearing before the director within the ten-day compliance period, for the purpose of contesting the city's demand for removal. The director, chief of police or his designee and the city attorney or his designee shall constitute a hearing board to hear the request.

B. The hearing shall be held as soon as practicable, but not earlier than five (5) days after receipt of the request, and not later than fifteen (15) days after such receipt. Notice of the time and place of hearing shall be directed to the person making the request. At any such hearing the city and the person to whom notice has been directed may introduce witnesses and evidence.

C. Persons to whom the Notice to Remove is directed pursuant to the provisions of this chapter, or their duly authorized agent, may appear in municipal court pursuant to the citation and summons. Those convicted of failing to abate a public nuisance pursuant to

this chapter shall be assessed court costs in addition to any other penalty assessed by the municipal court. If the public nuisance is abated prior to the hearing date stated on the summons, and the person issued the summons to appear in municipal court signs an affidavit before the court clerk attesting to the abatement, the city attorney may recommend to the municipal court that charges be dropped.

(Ord. No. 454, 7/18/88)

SECTION 8-410 REMOVAL OF MOTOR VEHICLES FROM PROPERTY.

If the violation described in the Notice to Remove has not been remedied within the ten-day period of compliance, or in the event that a notice requesting hearing is timely filed, a hearing had, and the existence of the violation is affirmed by director or his designee, the city attorney shall institute and prosecute additional charges on a daily basis, for failure to abate the nuisance, and the city shall in the discretion of the ~~director~~ **enforcement officer** take possession of the junk vehicle and remove it from the premises. It shall be unlawful for any person to interfere with or hinder anyone whom the city or the director authorizes to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

(Ord. No. 454, 7/18/88)

SECTION 8-411 NOTICE OF REMOVAL.

Within forty-eight (48) hours of the removal of such junk vehicle, the director or his designee shall give notice to the registered owner of the junk vehicle, if known, that the vehicle or motor vehicle was removed, that the vehicle or motor vehicle, has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored and the proper procedure for redeeming the vehicle, including cost of redemption.

(Ord. No. 454, 7/18/88)

SECTION 8-412 APPRAISAL.

Upon removing a junk vehicle under the provisions of this chapter, the city shall, after ten (10) days, cause it to be appraised. If the vehicle or boat appraises at Seventy-five Dollars (\$75.00) or less, the director or his designee shall execute an affidavit so attesting and describing the vehicle or motor vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle or motor vehicle. After complying with the above, the city may summarily dispose of the vehicle or boat and execute a bill of sale. If the vehicle or boat is appraised at over Seventy-five Dollars (\$75.00), notice of public sale shall be given not less than ten (10) days before the date of the proposed sale.

(Ord. No. 454, 7/18/88)

SECTION 8-413 REDEMPTION OF IMPOUNDED VEHICLES OR MOTOR VEHICLES.

The owner of any vehicle or motor vehicle impounded under the provisions of this chapter may redeem such vehicle or motor vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment to the city clerk of such sum as may be determined by the director and fixed as the actual and reasonable expense of removal, plus storage.

(Ord. No. 454, 7/18/88)

SECTION 8-414 COLLECTION OF CITY'S COSTS OF REMOVAL.

A. Upon the failure of the owner or occupant of property on which junk vehicles have been removed by the city to pay the unrecovered expense incurred by the city in such removal, the amount of the unrecovered cost may be added to the municipal utility bills directed to the occupants of the private property from which the junk vehicle was removed, and may be recovered in the same manner of such utility bills.

B. If the private property is not served by the municipal utilities, or if collection efforts are not successful, the costs may be certified by the city clerk to the county clerk of the county, who shall add the same to the ad valorem taxes assessed against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property; and when collected shall be paid to the city.

(Ord. No. 454, 7/18/88)

SECTION 8-415 PENALTY; CONTINUING VIOLATIONS.

In addition to the procedures for removal of vehicles, any person who shall violate any of the provisions hereof shall upon conviction be deemed guilty of an offense against the city. Each act in violation of any of the provisions hereof shall constitute a separate offense and may be chargeable as such. Each day's continued violation of any of the provisions hereof shall constitute a separate offense and may be punishable as such as provided in Section 1-108 of this code.

(Ord. No. 454, 7/18/88)

Severability: If any of the provisions of this ordinance are determined to be unconstitutional or unlawful by any court of competent jurisdiction, the remainder shall be severable and unaffected.

Repealer: Any ordinance or parts thereof in conflict with this section are hereby repealed.

PASSED AND APPROVED THIS 8th DAY OF August, 2009.

GLENN LEWIS, Mayor

ATTEST: (Seal)

JIM CORBETT, City Clerk

APPROVED AS TO FORM AND LEGALITY:

RANDY C. BRINK, City Attorney