

ORDINANCE NO. 210

AN ORDINANCE OF THE CITY OF TIOGA MAKING IT A PUBLIC NUISANCE AND UNLAWFUL FOR ANY PERSON OR PERSONS TO HAVE A JUNKED VEHICLE IN THE CITY LIMITS OF THE CITY OF TIOGA; REPEALING ORDINANCE NUMBER 73; PROVIDING CERTAIN PROCEDURAL REQUIREMENTS AND PROVIDING FOR A PENALTY FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA:

SECTION 1. A "junked vehicle" means a vehicle that is self-propelled and:

- (1) does not have lawfully attached to it:
 - (A) an unexpired license plate; 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.

SECTION 2. A junked vehicle, including a part of a junked vehicle, that is visible for a public place or public right-of-way:

- (1) is detrimental to the safety and welfare of the 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 municipalities; and
- (7) is a public nuisance.

SECTION 3. (a) Any junked vehicle, as defined herein, situated in the city limits of the City of Tioga, is hereby declared to be a nuisance and shall be abated and removed.

(b) Upon identification of a junked vehicle, the City by and through its designated representative, shall send a notice requiring abatement and removal of the junked vehicle within ten (10) days of the date of the notice. The notice must be personally delivered or sent by certified mail with a five-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 a public right-of-way, the property adjacent to the right-of-way.

(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 personally delivered or mailed; and
- (2) any request for a hearing must be made before that 10-day period expires.

(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, personally delivered.

(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.

SECTION 4.(a) The City Council of the City of Tioga shall conduct hearing under the procedures adopted under this ordinance.

- (b) If a hearing is requested by a person for whom notice is required under Section 3(b)(3) the hearing shall be held not earlier than the 11th day after the date of the date of the service of notice.
- (c) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable
- (d) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicles:
 - (1) description
 - (2) vehicle identification number, and
 - (3) license plate number.

SECTION 5. It is provided that after a vehicle has been removed, it shall not be reconstructed or made operable.

SECTION 6. It is provided that the relocation of a junked vehicle that is a public nuisance to another location inside the city limits of the City of Tioga after a proceeding for the abatement and removal of the public nuisance has commenced has no effect of the proceeding if the junked vehicle constitutes a public nuisance at the new location.

SECTION 7. It is provided that notice shall be given to the Texas Department of Public Safety with five (5) days after the date of removal, identifying the vehicle or part thereof. Said Department shall forthwith cancel the Certificate of Title to such vehicle.

SECTION 8. It is provided that for administration of the Ordinance by regularly salaried, full-time employees of the City except that the removal of vehicles or part thereof from the property may be by any other duly authorized person.

SECTION 9. The Chief of Police or his designate is authorized to enforce the provisions of this Ordinance and may enter private property for the purposes specified in this Ordinance to examine vehicles or parts thereof, obtain information as to the identify of the vehicle and to remove or cause the removal of a vehicle or parts thereof declared to a nuisance pursuant to this Ordinance. The City Council shall have authority to issue such further orders necessary to enforce this Ordinance.

- SECTION 10.
- (a) Procedures adopted under this ordinance may not apply to a vehicle or vehicle part:
 - (1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
 - (2) that is stored or parked in a lawful manner or in 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.
 - (b) In this section:
 - (1) "Antique vehicle" means a passenger car or truck that is at least 25 years old.
 - (2) "Motor vehicle collector" means a person who:
 - (A) owns one or more antique or special interest vehicles; and
 - (B) 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.
 - (3) "Special interest vehicle" means a motor vehicle of any age that has not been changed from original manufacture's specifications and, because of its historic interest, is being preserved by a hobbyist.

SECTION 11. (a) A junked vehicle, including a part of a junked vehicle, may be removed to a scrap yard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

(b) A municipality or county may operate a disposal site if its governing body determines that commercial disposition of junked vehicles is to an available or is in that commercial disposition of junked vehicles is not available or is inadequate. A municipality or county may:

- (1) finally dispose of a junked vehicle or vehicle part; or
- (2) Transfer it to another disposal site if the disposal is scrap or salvage only.

SECTION 12. (a) A person commits an offense if the person maintains a public nuisance described by Section 2.

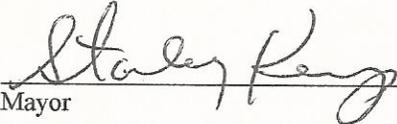
(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.00 for each offense. Each day such offense shall continue shall be deemed a separate offense.

(c) The court shall order abatement and removal of the nuisance on conviction.

SECTION 13. Ordinance number 73 and all other ordinances or parts of ordinances in conflict are hereby repealed. If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid by any court of competent jurisdiction, such invalidity shall not affect the other provisions, or application, and to this end the provisions of this ordinance are hereby declared to be severable.

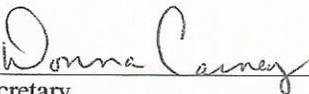
SECTION 14. This ordinance shall be in full force and effect upon passage by the City Council of the City of Tioga.

PASSED AND APPROVED THIS 8TH DAY OF JULY 2002.



Mayor

Attest:



City Secretary