

ORDINANCE NO. 328

AN ORDINANCE OF THE CITY OF WINK, TEXAS PROVIDING FOR THE ABATEMENT AND REMOVAL OF JUNKED VEHICLES OR PARTS THEREOF, AS PUBLIC NUISANCES, FROM PRIVATE PROPERTY, PUBLIC PROPERTY, OR PUBLIC RIGHT-OF-WAY; PROVIDING FOR THE SEIZURE THEREOF, PROVIDING FOR EXEMPTIONS THEREFROM; PROVIDING PROCEDURES FOR THE ENFORCEMENT OF SUCH REMOVAL; PROVIDING A PENALTY AND PROVIDING FOR PUBLICATION HEREOF.

Inoperable vehicles, inoperable motor vehicles, junked vehicles declared public nuisance; maintaining public nuisance prohibited.

- (a) An inoperable vehicle, inoperable motor vehicle, or junked vehicle that is visible from any right-of-way or adjacent property and/or is considered detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates a fire hazard, is an attractive nuisance creating a hazard to the health and safety of minors, produces urban blight adverse to the maintenance and continuing development of the city, is declared to be a public nuisance.
- (b) It shall be unlawful for any person, owner, agent, occupant or anyone having supervision or control of any real property within the city to maintain a public nuisance as determined under this section.
- (c) It shall be unlawful for any person, owner, agent, occupant or anyone having supervision or control of any real property within the city to have more than one inoperable vehicle, inoperable motor vehicle, or junked vehicle upon their property. This subsection shall not apply to auto sales lots, vehicle repair businesses, and salvage yards as long as all inoperable and junk vehicles on these properties shall be kept in compliance with subsections (d), (e), (f), and (g).
- (d) Any inoperable vehicle, inoperable motor vehicle, or junked vehicle shall be screened from any right-of-way or adjacent property by means of a solid opaque fence or shall be enclosed within a building. In no case shall any cover placed over an inoperable vehicle, inoperable motor vehicle, or junked vehicle constitute adequate screening.
- (e) Vehicle repair businesses may have up to five (5) vehicles legally parked on the business property which are not screened from public view regardless of whether the vehicles are currently registered and inspected, provided that the vehicles are not wrecked, dismantled, partially dismantled, dilapidated, have broken window glass, or have one or more flat tires.
- (f) Auto sales lots are exempt from subsection (d) when operating in compliance with all state laws and any other city ordinances regulating auto sales, and which are not displaying vehicles that are wrecked, dismantled, partially dismantled, dilapidated, have broken window glass, or have one or more flat tires.
- (g) Vehicle repair businesses may not maintain inoperable or junk vehicles on their property in excess of one hundred twenty (120) consecutive days. The vehicles on the property must be on the property for the purpose of repair. Additionally, a current, valid work order must be maintained for every vehicle. A current, valid work order is a work order that is one hundred twenty (120) days old or less.
- (h) It shall be construed that a vehicle that is not demonstrated to be operable upon request of the designated city official is an inoperable vehicle
- (i) An inoperable motor vehicle that remains inoperable for more than thirty (30) consecutive days becomes a junked vehicle.
- (j) At no time shall a tarp or any cover not designed to cover a motor vehicle or vehicle be used as a cover for an operable motor vehicle or operable vehicle.

Procedures for abating nuisance; exception.

- (a) The city may abate and remove a junked vehicle or a part of a junked vehicle as a public nuisance from private property, public property or public rights-of-way as provided in this section.
- (b) For such nuisance on private property, the city shall give not less than ten (10) days' notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten (10) days and that a request for a hearing must be made before expiration of the ten-day period. The notice shall 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 Post Office, 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) For such nuisance on public property, the city shall give not less than ten (10) days' notice, stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days and that a request for a hearing must be made before expiration of the ten-day period. The notice shall 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 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 the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.
- (d) A public hearing shall be held before the removal of the vehicle or vehicle part as a public nuisance. The hearing shall be held before the city council or official as designated by the city council, if 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 the vehicle is located, within ten (10) days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.
- (e) Notice shall be given to the state department of highways and public transportation not later than the fifth day after the date of removal. The notice shall identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act, V.T.C.A. Transportation Code ch. 501.
- (f) The procedures in this section shall not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard or an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.

Disposal of junked vehicles.

A junked vehicle or vehicle part may be disposed of by removal to a scrapyard, demolisher or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of section 17-36. The city may transfer the vehicle or vehicle parts to a disposal site if the disposal is only as scrap or salvage.

Enforcement.

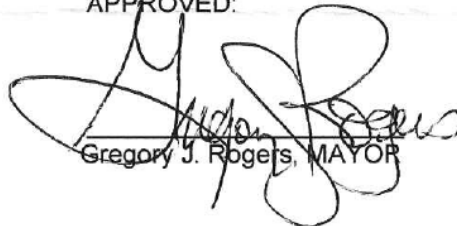
The person authorized by the city council to administer the procedures authorized by this division may enter private property as authorized by law for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. A person may be authorized by law to enter private property in the following circumstances: 1) with consent of the owner or person in control of the property; 2) with a valid warrant issued by a magistrate; or 3) when the private property is open to the public.

Publication.

The City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by law.

PASSED AND APPROVED, on first reading, this 8th day of June, 2010.

APPROVED:


Gregory J. Rogers, MAYOR

ATTEST:


Tonya Todd, CITY SECRETARY