

AN ORDINANCE CONTROLLING JUNK MOTOR  
VEHICLES IN THE CITY OF COMANCHE, TEXAS  
ADOPTED *April 22*, 1997

**COPY**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMANCHE, TEXAS:

ARTICLE I

JUNK MOTOR VEHICLE REGULATIONS

SHORT TITLE; DEFINITION OF TERMS; JUNKED MOTOR VEHICLES DEEMED A PUBLIC NUISANCE; ISSUANCE OF ABATEMENT ORDERS AND REMOVAL PROCEDURES---PUBLIC PROPERTY OR PUBLIC RIGHT-OF-WAY; PRELIMINARY PROCEDURE TO COURT TRIAL; HEARING OF AND RULING ON COURT CASES; REQUIREMENT OF DESCRIPTION OF VEHICLE; COMPLIANCE BY GRANTING PERMISSION FOR REMOVAL; RECONSTRUCTION OF VEHICLE PROHIBITED; NOTIFICATION OF HIGHWAY DEPARTMENT

ARTICLE II

JUNK MOTOR VEHICLE REGULATIONS

SECTION 1: SHORT TITLE. This Article may be cited as the "Junk Motor Vehicle Regulations."

SECTION 2: DEFINITION OF TERMS. For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future, words used in the plural include the singular, and words used in the singular number shall include the plural number. The word "shall" is always mandatory and not merely directory.

a. Junk Motor Vehicle. Any motor vehicle shall be considered a "junk motor vehicle" which does not have lawfully affixed thereto both an unexpired license plate and a valid motor vehicle safety inspection certificate, and as defined in Sec. 5.01(5) of Article 4472-9a, Vernon's Texas Civil Statutes, as amended, and the conditions of which is one (1) or more of the following:

- (1) wrecked;
- (2) dismantled;
- (3) partially dismantled;
- (4) inoperative;
- (5) abandoned;
- (6) discarded.

b. Person. Any individual, firm, partnership, association, corporation, company, or organization of any kind shall be termed as a "person."

SECTION 3: JUNK MOTOR VEHICLE DEEMED A PUBLIC NUISANCE. A junk motor vehicle that is located in a place where it is visible

visible from a public place or a public right-of-way; provided, however, that this section shall not apply with regard to:

- a. a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- b. a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or
- c. on unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner 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.

#### SECTION 4: ISSUANCE OF ABATEMENT ORDERS AND REMOVAL PROCEDURES-PRIVATE PROPERTY.

a. Authorization for Issuance of Abatement Orders. Whenever any said public nuisance exists on occupied premises within the City in violation of Section 3 hereof, the Chief of Police or duly authorized agent, shall order the owner or the occupant of the premises adjacent to the public property, or public right-of-way where such public nuisance exists, to abate or remove the same.

b. Content of Abatement Orders. Such orders shall:

- (1) be in writing giving ten (10) days notice;
- (2) specify the public nuisance and its location.

c. Serving of Abatement Orders. Such orders shall be served upon the owner or occupant of the premises or the owner or occupant of the adjacent premises of the public right-of-way by serving him personally or by sending such order by certified or registered mail with a five (5) day return requested to be addressed to the premises.

d. Authorization for Removal of Public Nuisance.

- (1) Undelivered Notice. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than ten



remove it from the premises. The Chief of Police or duly authorized agent shall thereof dispose of said junk motor vehicle in such manner as the City Council may provide.

(3) Request for Hearing After Notice. If the owner or occupant of said premises or the owner or occupant of the adjacent premises to a public right-of-way where such nuisance is found so desire, he may, within ten (10) day period after service of notice to abate the nuisance, request of the Clerk of the Municipal Court of the City, either in person or in writing and without the requirement of bond, that a date and time be set when such person may appear before the Judge of the Municipal Court for a trial to determine whether or not there is a violation of this Article, and said trial shall be set as provided in Section Eight (8) hereof.

SECTION 5: PRELIMINARY PROCEDURE TO COURT TRIAL. Upon receiving a request for trial made pursuant to Sections 5 or 6 hereof, the Clerk of the Municipal Court shall set a date and a time for such trial on the Court docket. The Clerk of the Municipal Court shall notify the City Attorney of the date and time of such hearing. The City Attorney shall cause to be prepared, filed, and served on the Defendant, a written complaint charging that the owner or occupant of the premises, as the case may be, has violated this Ordinance. After serving, said complaint shall be on file with the Clerk of the Municipal Court not less than ten (10) days prior to the date of the trial.

SECTION 6: HEARING OF AND RULING ON COURT CASES PERTAINING TO PUBLIC NUISANCE.

a. Hearing of Case. The Judge of the Municipal Court shall hear any case brought before said Court as set out herein, and shall determine whether or not the Defendant is, in fact, in violation of this Ordinance.

b. Penalty upon Conviction. Upon finding that said Defendant is indeed in violation of this Ordinance, said Defendant shall be deemed guilty of a misdemeanor and subject to a fine in accordance with the penalty provision hereinafter set forth.

c. Court Order for Removal of Public Nuisance. The Judge of said Court shall further order said Defendant to remove and abate said nuisance within ten (10) days, the same being a reasonable time. If the Defendant shall fail and refuse within said ten (10) days to abate or remove the nuisance, the Judge of the Municipal Court may issue an order directing the Chief of Police to have the same removed, and the Chief of Police, or a duly authorized agent, shall take possession



SECTION 8: COMPLIANCE BY GRANTING PERMISSION FOR REMOVAL. If, within ten (10) days after receipt of notice from the Chief of Police, or a duly authorized agent to abate the nuisance; as herein provided, the owner or occupant of the premises shall give written permission to the Chief of Police, or a duly authorized agent, for the removal of the junk motor vehicle from the premises, the granting of such permission shall be considered compliance.

SECTION 9: RECONSTRUCTION OF VEHICLE PROHIBITED. After a vehicle is removed and disposed of under the provisions of this Ordinance, it shall be unlawful to reconstruct or make such vehicle operable again.

SECTION 10: NOTIFICATION OF HIGHWAY DEPARTMENT. Written notice must be given to the Texas Highway Department within five (5) days after the date of removal, identifying the vehicle or parts thereof which have been removed.

### ARTICLE III

#### PENALTY AND SEVERABILITY

SECTION 1: PENALTY. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than TWO HUNDRED AND NO/100 (\$200.00) DOLLARS. Each transaction in violation of any of the provisions hereof shall be deemed a separate offense.

SECTION 2: SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentence, clauses, and phrases are separable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance or unconstitutional invalid phrases, clauses, sentences, paragraphs, or sections.

PASSED on first reading this the 21<sup>st</sup> day of April, 1997.

ATTEST:

  
William F. Flannery,  
City Secretary

  
Jimmie Warren, Mayor