

Ordinance No. 07-098

An ordinance amending the “Nuisance” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions and Prohibitions, Section 1.02, Definitions, by the amendment of the definition of Junked Vehicle; Article IV, Abatement, Section 4.04, Abatement Procedure, Subsection (D), relative to specifying fees; Article VI, Junked and Nuisance Vehicles, Section 6.06, Procedure for Disposition of Junked and Nuisance Vehicles, Subsection (A), relative to specifying fees; Article VIII, Graffiti, Section 8.04, Assessment of Expenses, relative to specifying fees; providing for a fine of up to \$2000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

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

1.

That the “Nuisance” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I, Definitions and Prohibitions, Section 1.02, Definitions**, so that the definition of “Junked Vehicle” shall be and read as follows:

Junked Vehicle - a vehicle that:

1. is self-propelled and
  - a. does not have lawfully attached to it an unexpired license plate, and
  - b. does not have lawfully attached to it a valid motor vehicle inspection certificate; and
2. is:
  - a. wrecked, dismantled or partially dismantled, or discarded, or
  - b. substantially disfigured, damaged, or disintegrated, or
  - c. ruined, destroyed or demolished; or

- d. inoperable and has remained inoperable for more than:
  - (1) seventy-two (72) consecutive hours, if the vehicle is on public property;
  - (2) thirty (30) consecutive days if the vehicle is on private property.

Further, **Article IV, Abatement, Section 4.04, Abatement Procedure, Subsection (D)**, is hereby amended so that said subsection shall be and read as follows:

- D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper and the Administrative Fee as set by resolution of City Council for City administrative expenses, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

Further, **Article VI, Junked and Nuisance Vehicles, Section 6.06, Procedure for Disposition of Junked and Nuisance Vehicles, Subsection (A)**, is hereby amended so that said subsection shall be and read as follows:

- A. After a determination is made by the City Manager appointed Department Director or his designee that a particular vehicle is a junked or nuisance vehicle or after an order issued by the municipal court pursuant to Section 6.04(C), there shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration

of said ten (10) day period, such notice to be personally delivered, delivered via the United States Postal Services with a signature confirmation, or sent by certified mail with a five (5) day return requested to:

1. the last known registered owner of the junked or nuisance vehicle;
2. all lien holders of record; and
3. the owner or occupant of:
  - a. the private premises whereupon such public nuisance exists; or
  - b. if the public nuisance vehicle is located on a public right-of-way, the property adjacent to the public right-of-way whereupon such public nuisance exists.

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. 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 earlier than the 11th day after the date of such return.

Further, **Article VIII, Graffiti, Section 8.04, Assessment of Expenses**, is hereby amended so that said section shall be and read as follows:

#### **Section 8.04 Assessment of Expenses**

The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper and the Administrative Fee as set by resolution of City Council for City administrative expenses shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%), or such rate allowed by law, from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements. The procedures set out herein are civil in nature and shall in no way

restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars (\$2000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

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The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the

provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

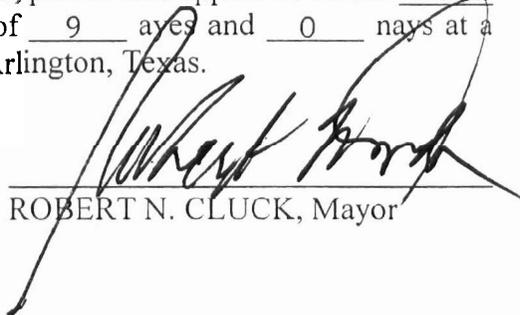
8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 4th day of December, 2007, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 18th day of December, 2007, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ATTEST



  
ROBERT N. CLUCK, Mayor

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY 