

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARROLLTON, TEXAS

Section 1.

That Chapter 90 of the Carrollton Code of Ordinances, is hereby amended to provide as follows:

90.01 IMPOUNDMENT OF ABANDONED PROPERTY

Any property or obstruction, except motor vehicles, placed, left standing, parked, erected or laying in violation of any provision of this Code or other ordinance of the city, or left unattended for 72 hours in or on any public street, alley, sidewalk, right-of-way, park or other public place of the city, is hereby declared to be a nuisance and that property, when so found, may be summarily removed by any Police Officer or DCO of the city and be taken to the designated pound area and shall be kept there until redeemed or sold in accordance with provisions of this subchapter.

90.02 AUTHORITY TO SELL

All abandoned, stolen or recovered property of every kind, except motor vehicles, which shall remain unclaimed from the City for a period of 45 days, without being claimed or reclaimed by the owner, whether known or not, may be sold and disposed of at auction in accord with this subchapter.

90.03 LIST OF PROPERTY FOR SALE; DELIVERY TO PURCHASING DEPARTMENT.

The Chief of Police or DCO shall give to the Purchasing Department a list of all property subject to sale under section 90.02 and shall thereafter deliver that property to the Purchasing Department before the date of sale, and take a receipt from the Purchasing Department showing in detail all property so delivered.

90.04 SALE PROCEDURE

- (A) All property subject to sale under this subchapter shall be offered for sale, either separately or assembled in lots, at a public auction and that property shall be sold to the highest bidder. The public auction shall be conducted by the Purchasing Department at the place and hour designated in the notice given pursuant to division (A) of this section and all sales shall be for cash.
- (B) The Purchasing Department shall keep an accurate record of each article sold under this subchapter and the price bid and paid therefore, and shall make a

complete report in writing to the Chief Financial Officer or his designee of the time, place and manner of conducting the sale

- (C) All funds received on account of a sale conducted pursuant to this subchapter shall be delivered to the Chief Financial Officer or his designee, who shall give his receipt therefore. The Chief Financial Officer or his designee shall place all funds so received to the credit of the general fund to be thereafter disbursed as the City Council shall order.

90.05 DISPOSAL OF WORTHLESS PROPERTY

Any property which has been listed and offered for sale under this subchapter and for which no price or sum has been offered, if deemed in the opinion of the Purchasing Department to be worthless and without value, shall be disposed of in such manner as the Purchasing Department shall prescribe. The description of all property destroyed or disposed of by the Purchasing Department as worthless or without value shall be reported to the City Council, together with the date and manner of disposal.

Secs. 90.06– 90.14 Reserved

ABANDONED PROPERTY AND VEHICLES

90.15 DEFINITIONS

Abandoned vehicle – means a motor vehicle is abandoned if the motor vehicle:

- (A) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (B) has remained illegally on public property for more than 48 hours;
- (C) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
- (D) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;
- (E) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway.

Designated city official or DCO – The City Manager. The term may include the City Manager's designee or delegated staff or duly authorized representative of the City Manager.

Inoperable motor vehicle – A motor vehicle that does not have lawfully affixed either an unexpired license plate or a valid motor vehicle safety inspection certificate, or a vehicle that is not in operating condition because it is wrecked, dismantled, partially dismantled, dilapidated or has one or more flat tires.

Inoperable vehicle – A vehicle without a motor, including but not limited to trailers, campers, camper shells, and wheeled towing frames, that is not in operating condition because it is wrecked, dismantled, partially dismantled, dilapidated or has one or more flat tires.

Junked vehicle – A vehicle that is self-propelled and:

(A) is missing a lawfully attached:

- (1) unexpired license plate; or
- (2) valid motor vehicle inspection certificate; and

(B) is:

- (1) wrecked, dismantled or partially dismantled, or discarded; or
- (2) inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if the vehicle is on public property; or
 - (b) 30 consecutive days, if the vehicle is on private property; (as defined in Texas Transportation Code Annotated 683.071 amended May 21, 2007)

Vehicle - For this chapter means any and every device in, upon or by which a person or property is or may be transported, drawn or moved upon a street, highway, waterway or airway and shall include but is not limited to any automobile, bus, truck, tractor, motorhouse, farm machinery, motorcycle, scooter, moped, all-terrain vehicle, boat, boat trailer, aircraft, recreational vehicle, golf cart, go-cart, trailer, fifth wheel trailer, camper, camper shell, wheeled towing frame, semi-tractor, semi-tractor trailer, truck bed mounted on a chassis and mobile home. This does not include non-motorized bicycles, small engine lawn mowers and devices of similar scale or mobile homes located in mobile home parks.

90.16 AUTHORITY TO TAKE POSSESSION.

The Police Department or DCO may take into custody an abandoned vehicle or motor vehicle found on public property. The Police Department may take into custody an abandoned vehicle or motor vehicle found on private property. The Police Department or DCO may also employ its own personnel, equipment and facilities or hire persons, equipment and facilities to remove, preserve and store an abandoned motor vehicle it takes into custody.

90.17 NOTIFICATION OF OWNER AND LIENHOLDER

(A) Upon the impoundment of an abandoned, inoperable or junked vehicle under section 90.15 or 90.16, the Police Department or DCO shall notify within ten days thereof, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record pursuant to Chapter 501 of the Texas Transportation Code for the motor vehicle or under Chapter 31, Parks and

Wildlife Code, for the watercraft or outboard, that the vehicle has been taken into custody. The notice shall describe the year, make, model and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lienholder of their right to reclaim the motor vehicle not later than the twentieth day after the date of notice, on payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, or garagekeepers' charges if proper notice has been given thereof. The notice shall also state that the failure of the owner or lienholder to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholder of all right, title and interest in the vehicle and their consent to the sale of the vehicle at a public auction.

- (B) If the identity of the last registered owner cannot be determined, if the registration contains no address of the owner or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this subchapter. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.
- (C) The consequences and effect of failure to reclaim an abandoned motor vehicle are set forth in a valid notice given under this section.
- (D) The Police Department, DCO or their agent that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for:
 - (1) A period of not more than ten days beginning on the day the Department takes custody and continuing through the day the Department mails notice as provided by this section;
 - (2) A period beginning on the day after the day the Department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

90.18 AUCTION OF ABANDONED MOTOR VEHICLES

- (A) If an abandoned motor vehicle has not been reclaimed as provided by section 90.17, the Police Department or DCO shall sell the abandoned motor vehicle at a public auction. Proper notices of the public auction shall be given, and in case of a garagekeepers' lien, the garagekeeper shall be notified of the time and place of the auction.
- (B) The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from

the Police Department or DCO, and is entitled to register the purchased vehicle and receive a certificate of title.

- (C) The Police Department or DCO shall reimburse itself from the proceeds of the sale of the abandoned motor vehicle for the expenses of the auction, the costs of towing, preserving and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under section 90.17. Any remainder from the proceeds of sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the special fund that shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs.

90.19 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 a public place or public right-of-way 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, and 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 two inoperable vehicles, inoperable motor vehicles or junked vehicles upon their property.
- (D) Any inoperable vehicle, inoperable motor vehicle, or junked vehicle shall be screened from any public place or public right-of-way by means of a solid opaque fence or shall be enclosed within a building. In no case shall any cover placed over a vehicle constitute adequate screening.
- (E) An inoperable vehicle, inoperable motor vehicle, junked vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher or any suitable site.

- (F) 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.
- (G) An inoperable motor vehicle that remains inoperable for more than 30 consecutive days becomes a junked vehicle.
- (H) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.

**90.20 ABATEMENT PROCEDURE FOR INOPERABLE VEHICLE,
INOPERABLE MOTOR VEHICLE AND JUNKED VEHICLE.**

- (A) *On Private Property.* Upon complaint or upon city staff initiative, the DCO may initiate appropriate official action to remove and abate a public nuisance in the nature of an inoperable vehicle, inoperable motor vehicle, or junked vehicle. Whenever a public nuisance exists on private property, the DCO shall notify the last known registered owner of the junked vehicle, inoperable vehicle, inoperable motor vehicle, any lienholder of record, and the owner or occupant of the private premises on which the public nuisance exists, that the nuisance exists, that it must be removed and abated within ten days of the receipt of that notice, or that a request for a hearing must be made by said owner or occupant before the expiration of the ten day period from the receipt of the notice. The notice hereinabove described shall be personally delivered, sent by certified mail with a five day return requested, or delivered by the United States Postal Service with signature confirmation service. 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 post office, further official action to abate the nuisance shall be continued to a date of not less than ten days after the date of return.
- (B) *On Public Property.* Whenever a public nuisance in the nature of a junked vehicle exists on public property, the DCO shall notify the last known registered owner of the junked vehicle, inoperable vehicle, inoperable motor vehicle, any lien holder of record and the owner or occupant of the public premises or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists, that the nuisance exists, that it must be removed and abated within ten days of receipt of such notice, or that a request for a hearing must be made by said owner or occupant before the expiration of the ten day period from the receipt of the notice. The notice hereinabove shall be personally delivered, sent by certified mail with a five day return requested, or delivered by the United States Postal service with signature confirmation service. 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 post office, further official action to abate the

nuisance shall be continued to a date not less than ten days after the date of the return.

- (C) *Public Hearing.* A public hearing shall be held before the Municipal Court of the city for determination of the existence of a junked vehicle as a public nuisance and for the purpose of entering an order requiring the removal of the same if found to be so. Notice of this hearing shall be sent by certified mail to the last known registered owner of the junked vehicle, and lienholder of record, the owner or occupant of the private premises, public premises or the premises adjacent to the public right-of-way, as the case may be, not less than ten days before the date of hearing. If personal service cannot be obtained for notice of hearing, then notice by one publication in one newspaper of general circulation in the area where the junked/inoperable motor vehicle was abandoned is sufficient notice under this subchapter. The notice by publication may contain multiple listings of junked/inoperable or abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail. A Judge of the Municipal Court shall be the designated official to make that determination and upon the finding that the vehicle is a junked vehicle and constitutes a public nuisance, he shall enter an order requiring the removal and destruction of the vehicle or part thereof. This order shall 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.

90.21 AUTHORITY TO ENFORCE

The DCO authorized to administer the procedures may enter private property to examine a vehicle or vehicle part, to obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part declared to be a nuisance by a Judge of the Municipal court.

90.22 PROOF OF CULPABLE MENTAL STATE NOT REQUIRED

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.

Secs. 90.23 – 90.89 Reserved

90.90 RIGHT OF ENTRY

Whenever it is necessary to make an inspection to enforce this chapter, or whenever the DCO has reasonable cause to believe that there exists in any structure or upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental to the public interest, the DCO may enter such structure or property at all reasonable times to inspect such structure or property; provided, however, that if such structure or property is occupied, the DCO shall first present proper credentials and

request entry, and if such entry is refused, shall then have recourse to every remedy provided by law to secure entry.

Secs. 90.91– 90.98 Reserved

90.99 PENALTY

A person who violates any provisions of this chapter is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99, for each act of violation and for each day or part of a day during which the violation is committed, continued or permitted. If a person is convicted of maintaining a public nuisance as provided by this chapter, the court shall order removal and abatement of the nuisance by that person or the DCO in the case of an inoperable vehicle, inoperable motor vehicle, or junked vehicle

Section 2.

That any owner, occupant, firm or corporation violating a provision of this ordinance, upon conviction, is guilty of an offense punishable as provided in Section 10.99 of the Carrollton City Code as amended.

Section 3.

That if any section, sub-section, paragraph, clause, phrase, or provisions of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provisions hereof, other than the part so decided to be invalid or unconstitutional.

Section 4.
Savings Clause

That except as herein amended, Title 9, Chapter 90, otherwise known as the Abandoned Property and Vehicles of the Carrollton Code of Ordinances, as amended, shall remain in full force and effect.