ORDINANCE NO. 5311

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING THE CODE OF ORDINANCES AT CHAPTER 13 "NUISANCES," ARTICLE III "ABANDONED VEHICLES," SECTION 13-40 "DEFINITIONS," ARTICLE IV "JUNKED AND INOPERABLE VEHICLES," SECTION 13-70 "DEFINITIONS"; AND ARTICLE IV "JUNKED AND INOPERABLE VEHICLES," SECTION 13-73(G) "INOPERABLE VEHICLES AND INOPERABLE MOTOR VEHICLES– ABATEMENT AND REMOVAL"; PROVIDING SEVERABILITY, REPEALER AND SAVINGS CLAUSES; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Denison (hereinafter referred to as "City") is a Home Rule Municipality, acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the "City Council") adopted Chapter 13 of the Code of Ordinances; and

WHEREAS, the City Council has investigated and determined that it is in the best interest of the City to amend Chapter 13, Article III, Section 13-40, and Article IV, Section 13-70, to provide definitions to terms required for the regulation of nuisances related to abandoned, junked and inoperable vehicles in a manner that properly meets community and development needs; and

WHEREAS, the City Council has investigated and determined that it is in the best interest of the City to amend Chapter 13, Article IV, Section 13-73(g), to align with the Texas Transportation Code on statutory waiting periods for inoperable vehicles to be located on private property in order to comply with state requirements while properly meeting community and development needs; and

WHEREAS, after due deliberations and consideration, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and the public health, safety, and welfare of its citizens.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. Amendment Article III Section 13-40 Definitions. That the Code of Ordinances of the City of Denison, Texas be, and is hereby, amended at Chapter 13 "Nuisances," Article III "Abandoned Vehicles," Section 13-40 "Definitions" as follows:

Sec. 13-40. – Definitions.

The following words, terms and phrases, when used in this section, shall have the following meanings:

Abandoned Vehicles – motor vehicle is abandoned if the motor vehicle:

(1) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
(2) has remained illegally on public property for more than 48 hours;
(3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
(4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;
(5) 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; or
(6) is considered an abandoned motor vehicle under Tex. Transp. Code Section 644.153(r).

Aircraft Garagekeeper – shall mean the owner or operator of a storage facility specifically designated for aircraft, as defined by Tex. Transp. Code Sec. 24.001 (1).

Motor Vehicle:

(1) any motor driven or propelled vehicle required to be registered under the laws of this state;
(2) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;
(3) a travel trailer;
(4) an off-highway vehicle, as defined by Tex. Transp. Code Section 551A.001; or
(5) a motorcycle or moped that is not required to be registered under the laws of this state.

Special Interest Vehicle - A motor vehicle of any age that has not been altered or modified from the original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Motor Vehicle Demolisher - A person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Outboard Motor – shall mean an outboard motor subject to registration under Texas Parks and Wildlife Code Chapter 31.

Storage Facility – includes a garage, parking lot, or establishment for the servicing, repairing, or parking motor vehicles.

Watercraft – a vessel subject to registration under Texas Parks and Wildlife Code Chapter 31.

SECTION 3. Amendment Article IV Section 13-70 Definitions. That the Code of Ordinances of the City of Denison, Texas be, and is hereby, amended at Chapter 13 "Nuisances," Article IV "Junked and Inoperable Vehicles," Section 13-70 "Definitions" as follows:

Sec. 13-70. – Definitions.

The following words, terms and phrases, when used in this section, shall have the following meanings:

Aircraft - a device that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment.

Inoperable Vehicle – shall mean any vehicle, whether a motor or non-motorized vehicle and as defined within this section or the Texas Transportation Code, which cannot be operated on the public roadway due to lack of current registration or physical condition, in accordance with all applicable State law and the City of Denison Code of Ordinances.

Junked Vehicle – a vehicle that:

(1) is self-propelled; 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, and

iii. displays an expired license plate or does not display a license plate.

(3) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or

(4) a watercraft that:

a. does not have lawfully on board an unexpired certificate of number; and

b. is not a watercraft described by Tex. Parks & Wild. Code Chapter 31 Section 31.055.

Motor Vehicle:

(1) any motor driven or propelled vehicle required to be registered under the laws of this state;

(2) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;

(3) a travel trailer;

(4) an off-highway vehicle, as defined by Tex. Transp. Code Section 551A.001; or

(5) a motorcycle or moped that is not required to be registered under the laws of this state.

Motor Vehicle Collector – a person who:

(1) owns one or more antique or special interest vehicles; and

(2) 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.

Motor Vehicle Demolisher – a person in the business of:

(1) converting motor vehicles into processed scrap or scrap metal; or

(2) wrecking or dismantling motor vehicles.

Special Interest Vehicle - a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Utility Trailer - shall mean a non-motorized vehicle designed to be pulled by a motor vehicle, and used to transport personal property, materials or equipment, whether or not permanently affixed to the bed of the trailer.

SECTION 4. Amendment Article IV Section 13-73(g) Inoperable Vehicles and Inoperable Motor Vehicles– Abatement and removal. That the Code of Ordinances of the City of Denison, Texas be, and is hereby, amended at Chapter 13 "Nuisances," Article IV "Junked and Inoperable Vehicles," Section 13-73(g) "Inoperable Vehicles and Inoperable Motor Vehicles – Abatement and removal" as follows (strike-through is deleted text, underline is added text):

> (g) Abatement and removal. An inoperable vehicle or inoperable motor vehicle that is not abated or removed within a ~~forty-five~~thirty-day time period beginning from the date of the first notice of the public nuisance will be declared a junked vehicle. The procedures for abatement and removal of the junked vehicle shall be as stated in section 13-72.

SECTION 5: Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Denison, Texas, in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 6 Repealer and Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the Ordinances of the City of Denison, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 7: **Publication and Effective Date**. This Ordinance shall become effective from and after its date of passage and approval.

SECTION 8: Open Meeting. That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the above and foregoing ordinance was passed and approved by the following vote:

Ayes: Hander, Courtright, Thorne, Gott, Massey, Crawley and Spiegel
Nays:
Abstentions:

At regular meeting held on September 18, 2023.

Janet Gott
JANET GOTT, Mayor

ATTEST:

Christine Wallentine
Christine Wallentine, City Clerk

CITY OF DENISON
Denison
TEXAS
TEXAS 1872