

**TOWN OF ANDERSON
ORDINANCE NO. 105-14
SALVAGE YARD ORDINANCE**

AN ORDINANCE MAKING IT UNLAWFUL TO LEAVE OR PERMIT TO REMAIN UPON ANY PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWN OF ANDERSON, TEXAS, ANY JUNKED VEHICLE, OR PORTIONS THEREOF, DECLARING THE LEAVING OR PERMITTING TO REMAIN, OF ANY JUNKED MOTOR VEHICLE, OR PART OR PORTION THEREOF, UPON PUBLIC OR PRIVATE PROPERTY IN THE TOWN OF ANDERSON, TEXAS (EXCEPT AS PROVIDED HEREIN) TO BE UNLAWFUL AND ESTABLISHING PROCEDURES FOR ABATEMENT AND REMOVAL OF JUNKED VEHICLES OR PARTS THEREOF, AND PUBLIC NUISANCES, FROM PRIVATE PROPERTY OR PUBLIC PROPERTY, PROVIDING THAT NOTICE BE GIVEN; PROVIDING REMEDIES; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, the Board of Alderman, Town of Anderson, Texas find a large number of junked vehicles, as that term is defined herein, are from time to time left in places where they are viable from a public place or right-of-way, that said junked vehicles create fire hazards and that the same constitutes an attractive nuisance, creating a hazards to the health and safety of minors, and the same or detrimental to the economic welfare of the Town of Anderson by producing the urban blight which adverse to the maintenance and continuing development of the Town of Anderson, Texas

WHEREAS the Town of Anderson, Texas has the authority to pass, approve and adopt this Ordinance in accordance with the Transportation Code Chapter 683 and Local Government Code Chapter 54.044.

**Section A
SHORT TITLE**

This Ordinance may be cited as “SALVAGE YARD ORDINANCE”

**Section B
Definitions**

For the purposes of this article, the terms used herein shall be interpreted to read as follows, and any words not herein defined shall be construed in the context used and by ordinary interpretation and not as a word of art:

Antique Auto: Antique Auto shall include passenger cars or trucks that are 40 years or older.

Collector: The term collector shall refer to the owner of one or more antique or special interest vehicles who collects, purchases, or acquires, trades or disposes of special interest or antique vehicles or parts of them for his own use in order to restore, preserve, and maintain an antique or special interest vehicle.

Demolisher: Any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles.

Person: The word person shall include and be applied to a firm, partnership, association, corporation, club, society, group acting as a unit, or body politic, and corporate, as well as to an individual.

Public Place: The term public place shall include any public right-of-way, cemetery, park, school yard, or open space adjacent thereto; any public lake or stream, and any place or business open to the public in general, open to public view or to which the public has access.

Public Right-Of-Way: The term public right-of-way shall include any street, alley, boulevard, parkway, avenue, drive, highway, sidewalk, or other public thoroughfare.

Public Nuisance: The term public nuisance is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition that:

- a. Injures or endangers the comfort, repose, health or safety or others; or
- b. Offends decency; or
- c. Is offensive to the senses; or
- d. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any public right-of-way.
- e. In any way renders other persons insecure in life or the use of property; or
- f. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of property of others.

Junked Vehicle: Any motor vehicle as defined by Transportation Code Section 683.071 and as amended, which vehicle

- a. is self-propelled and
- b. is wrecked, dismantled, or partially 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.
 - iii. Does not lawfully have attached to is an unexpired license plate; or a valid motor vehicle inspection certificate.

Salvage Yard: A business that contains **three (3)** or more junked vehicles as defined in this Ordinance.

Special Interest Vehicle: The term special interest vehicle is a vehicle of any age which has not been altered or modified from the original manufacturer's specifications and because of its historic interest is being preserved by a hobbyist.

Used Vehicles: A Motor Vehicle that has **one (1)** or more previous owners.

Used Vehicle Lot: Five (5) or more used vehicles stored for the purpose of sale to individuals or entities. If any motor vehicle has been sold from the lot prior to inspection, it is presumed that the proprietor intends to sell other vehicles stored on the lot.

The above definitions apply whether or not the property owner, company, agent of company, dealer, occupant, or proprietor is licensed to operate a salvage yard or a used car dealership. All dealers are required to be licensed under State Law.

Section C

Junked Vehicles Declared a Public Nuisance

Junked Vehicles which are located in any place where they are visible from a public place or public right-of-way regardless of the possible commercial use of such place are detrimental to the safety and welfare of the general public, reduce the value of property, invite vandalism, create fire hazards, constitute an attractive nuisance creating a hazard the health and safety of minors, and are detrimental to the economic welfare of the Town of Anderson, Texas by producing urban blight which is adverse to the maintenance and continuing development of the Town of Anderson, Texas.

Section D

Making it Unlawful to Create or Maintain Such a Nuisance

It shall be unlawful for any individual, company, or corporation to leave or permit to remain upon public or private property except as hereinafter provided) within the Town of Anderson, Texas any junked vehicle or portions thereof.

Section E

Notice to Remove

1. Upon determination of the designee of the Town of Anderson that a public nuisance exists in the Town of Anderson, the designee shall give or cause to be given to the person maintaining or suspected of maintaining such a public nuisance in writing a notice requesting abatement in ten (10) days. The notice shall state the nature of the public nuisance and that it must be abated and removed within said ten (10) day period. Such notice shall be mailed by certified or registered mail to:
 - a. The last known registered owner of the public nuisance,
 - b. Each lienholder of record of the public nuisance, and
 - c. The owner or occupant of: the property on which the public nuisance is locations, or if the public nuisance is location on a public right-of-way.
 - d. If the post office address of the last known registered owner of the public nuisance is unknown, notice may be placed on the public nuisance itself, or if the owner is located, hand-delivered.
2. The notice must state that the public nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was mailed, and any request for hearing must be made before the ten (10) day period expires.

3. If the notice returns undeliverable action to abate the public nuisance shall be continued to a date not earlier than the **eleventh (11th)** day after the date of the return.

Section F

Hearing

1. If a hearing is requested by a person for whom notice is required pursuant to this Ordinance, the hearing shall be held not earlier than the **eleventh (11th)** day after the date of service of the notice.
2. At the hearing the junked vehicle is presumed to be inoperable, unless demonstrated to the contrary by the owner.

If the information is available at the location of the public nuisance, a resolution for removal must include the vehicle's:

- a. Description;
 - b. Vehicle Identification Number (VIN); and
 - c. License plate Number (if available)
3. A request for hearing shall be in writing and shall be addressed to the Town of Anderson, Board of Alderman, to P.O. Box 592, Anderson, Texas 77830

Section G

Order by Board of Aldermen

If the Board of Alderman holds a required hearing and finds that the junked vehicle(s) is/are a nuisance, the owner or occupant of the premises shall be ordered to remove the junked vehicle within **ten 10** days after the owner or occupant is given notice of the Order by Board of Alderman to Abate Junked Vehicle.

If the owner or occupant of the premises fails to attend the public hearing, the order shall cause to be delivered to the last known address of the owner or occupant of the premises. It shall be a violation of the Junked Vehicle Ordinance for the owner or occupant to fail to comply within the 10 days.

The Order shall state the information required, if available, pursuant to Section F above.

Section H

Duty of Owner or Occupant

A junked vehicle or salvage yard and used vehicle lot may not be located within **50** feet of the right-of-way of a public street or state highway or residence. A Junked vehicle or salvage yard or used vehicle lot must have a solid barrier fence **eight (8)** feet surrounding the yard.

The property owner, company, agent or company, dealer, occupant, or proprietor is responsible for providing proof of a state license to operate a salvage yard issued by the Texas Department of Motor Vehicles. The property owner, company, agent or company,

dealer, occupant, and/or proprietor is responsible for providing proof of a state license to operate a vehicle dealership issued by the Texas Department of Motor Vehicles. Proof of license must be shown immediately upon request of the Board of Inspectors of other designee of the Town of Anderson.

The Board of inspectors or other designee of the Town of Anderson is authorized to inspect whether or not the junked vehicle and/or used vehicle lot is in compliance with this ordinance.

In the event the owner or occupant does not request a hearing it shall be his duty to comply with the order and abate the nuisance within **ten 10** days of the date of the Order delivered to him.

Section I

Notice to the Texas Department of Transportation

Notice shall be given to the Texas Department of Transportation within **five (5)** days of the removal of the junked vehicle.

Section J

Relocation

If the owner or occupant of the premises relocates a junked vehicle that is a public nuisance to another location in the Town of Anderson, Texas has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

Section K

Removal and Abatement by the Town of Anderson

Within **ten (10)** days after notice has been delivered to the owner or occupant of the premises, if a hearing is not requested and the owner or occupant has not moved the junked vehicle, the Board of Inspectors may petition the Board of Alderman for an order to remove or cause to be removed the vehicle that was the subject to the notice to a scrap yard, a motor vehicle demolisher, or a suitable site designated by the Town of Anderson.

Section L

Persons Authorized to Inspect and Abate and Remove

The Board of Alderman has designated the Board of Inspectors in Condemnation Ordinance No. 73A-09 for inspection of a nuisance. The Board of Inspectors are authorized to administer procedures stated herein, enter a private property to examine a public nuisance, obtain information to identify the nuisance, and to remove or direct another authorized by the Board of Alderman to remove the junked vehicle. The Board of Alderman may designate any other appropriate person to inspect, abate, or direct the abatement of the junked vehicle on private property.

Section M

Sale or Disposal of Vehicle

Any junked vehicle that has been removed may be disposed by sale to a demolisher making the highest bid to be processed as scrap or salvage by such demolisher.

Section N

Where the Ordinance Does Not Apply

The Ordinance shall not apply to a vehicle or vehicle part:

1. That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
2. That is stored or parked in a lawful manner on private property in connection the business of a licensed vehicle dealer or junk yard, or that is an antique vehicle stored by a motor vehicle collector on the collector's property, if the vehicle and the outdoor storage area are:
 - a. Maintained in an orderly manner;
 - b. Not a health hazard; and
 - c. Screened from ordinary public view by an appropriate means, including a fence, trees, or shrubbery.

Section O

Penalty and Remedy

The Town of Anderson shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. The Board of Alderman shall have the authority to issue orders as necessary to enforce and implement provisions of this Ordinance within the Town of Anderson.

The Town of Anderson has the right to impose a civil penalty of up to one thousand dollars (\$1,000.00) per day when it is shown that the defendant was actually notified of the provisions of this Ordinance or after received notice failed to take action necessary for compliance with the Ordinance.

An Order of the Board of Alderman pursuant to this Ordinance is final and binding and constitutes prima facie evidence of the civil penalty in any court of competent jurisdiction in a civil suit brought by the Town of Anderson for final judgment in accordance with the established penalty.

To enforce any civil penalty under this Ordinance by district court judgment, the Town of Anderson secretary must file with the district clerk of Grime County a certified copy of the Order establishing the amount and duration of the penalty. No other proof is required for the district court to enter a final judgment on the penalty.

In addition to any other remedies contained herein, the Town of Anderson may enforce the provisions of this article pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which chapter provides for the enforcement of municipal ordinances.

Section P

Resort to the Courts

Nothing in this Ordinance shall be construed as abridging the right of the Town of Anderson, Texas to resort to the courts of this State for the enforcement of this Ordinance, or of the rights of any owner to resort to the courts of this State in an attempt to enjoin the enforcement of this Ordinance.

Section Q

Future Amended

Any and all portions of this Ordinance are subject to amendment by the Board of Alderman upon notice.

Section R

Savings Clause

If any article, paragraph, or part of a paragraph of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other article, paragraph or part or a paragraph of this Ordinance, which shall remain in full force and effect.

ORDINANCE NO. 105-14

WHEREAS, the Town of Anderson as a duty to abate and remove a nuisance; define and declare whatever constitutes a nuisance, and abate any nuisance the Board of Alderman believes may injure or affect the public health, safety, and comfort.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE TOWN OF ANDERSON, TEXAS THAT:

THE SALVAGE YARD ORDINANCE ATTACHED HERETO IS HEREBY ADOPTED AS THE TOWN OF ANDERSON SALVAGE YARD ORDINANCE.

If any section, subsection, word sentence or phrase of this Ordinance is held invalid, it shall not affect the remaining parts of this Ordinance.


This Ordinance shall be effective in full force and effect from and after five (5) days following publication thereof.

PASSED AND APPROVED ON THE FIRST READING THIS 11TH DAY OF DECEMBER 11, 2014.

PASSED AND APPROVED ON THE SECOND READING THIS 8TH DAY OF JANUARY, 2015.

PASSED, APPROVED AND ADOPTED ON THE THIRD READING THIS 12th DAY OF FEBRUARY, 2015.

ATTEST:


MAYOR, GAIL SOWELL


CITY SECRETARY