

**ORDINANCE NO. 13-01-14**

**AN ORDINANCE REGULATING AND PROVIDING FOR THE REMOVAL AND DISPOSITION OF ABANDONED AND JUNKED VEHICLES AND MOTOR VEHICLES; DEFINING CERTAIN TERMS; GRANTING AUTHORITY TO TAKE CERTAIN ABANDONED VEHICLES AND MOTOR VEHICLES INTO CUSTODY; PROVIDING FOR CERTAIN NOTICES TO REGISTERED OR RECORDED OWNERS OR LIEN HOLDERS OF VEHICLES DEEMED ABANDONED AND FOR THE CONTENTS OF SUCH NOTICES; ESTABLISHING RIGHTS OF OWNERS OR LIEN HOLDERS TO RE-CLAIM VEHICLES DEEMED ABANDONED; REQUIRING THE PUBLIC AUCTION OF ABANDONED VEHICLES; PROVIDING FOR THE DISTRIBUTION OF THE PROCEEDS FROM THE SALE OF ABANDONED MOTOR VEHICLES; PROVIDING FOR THE DEMOLITION AND DISPOSAL OF CERTAIN MOTOR VEHICLES; DECLARING JUNKED VEHICLES AS PUBLIC NUISANCES; PROVIDING FOR CERTAIN NOTICES TO REGISTERED OR RECORDED OWNERS AND LIEN HOLDERS OF JUNKED VEHICLES AND FOR THE CONTENTS OF SUCH NOTICES; PROVIDING FOR REQUESTED PUBLIC HEARINGS; PROHIBITING THE RE-CONSTRUCTION OF OR MAKING OPERABLE A REMOVED JUNKED MOTOR VEHICLE; PROVIDING FOR NOTICE TO TEXAS DEPARTMENT OF MOTOR VEHICLE OF REMOVAL OF JUNKED MOTOR VEHICLES; PROVIDING FOR EXCEPTED JUNKED MOTOR VEHICLES; PROVIDING FOR DISPOSAL OF JUNKED MOTOR VEHICLES; AUTHORIZING OFFICIALS TO GO ON PRIVATE PROPERTY FOR INSPECTION OR REMOVAL OF JUNKED VEHICLES; PROVIDING FOR ADMINISTRATION HEREOF; PROHIBITING THE VIOLATION OF THE PROVISIONS HEREOF SHALL CONSTITUTE A MISDEMEANOR AND BE PUNISHABLE BY FINE OF NOT TO EXCEED \$200.00 FOR EACH OFFENSE UPON CONVICTION THEREOF; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS, the Legislature of the State of Texas has duly enacted House Bill No. 1181 which has been duly signed by the Governor and which became effective August 30, 1971; providing for the regulation and disposal of abandoned vehicles and junked vehicles and motor vehicles, and authorizing Texas incorporated cities to regulate and dispose of abandoned vehicles and junked vehicles and motor vehicles; thereby extending the authority of the City of Lyford in such areas. Now, therefore;**

**BE IT ORDAINED BY THE COMMISSIONERS OF THE CITY OF LYFORD,  
TEXAS:**

That the following provisions are here enacted to be and become effective as an ordinance of the City of Lyford, upon final passing hereof and publication of the caption hereof as required by law:

Section 1. TITLE. This Ordinance shall be cited as the "LYFORD ABANDONED, JUNKED AND NUISANCE MOTOR VEHICLE ORDINANCE."

JUNKED AND ABANDONED VEHICLES

DIVISION 1. - GENERALLY

DIVISION 2. - ABANDONED MOTOR VEHICLES

DIVISION 3. - JUNKED VEHICLES

DIVISION 1. - GENERALLY

Sec. 13-3-1 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Abandoned motor vehicle* means a motor vehicle that:

- (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; or
- (e) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the state turnpike authority or a controlled access highway.

(2) *Junked vehicle* means a vehicle that is self-propelled and:

- (a) Does not have lawfully attached to it:
  - 1. An unexpired license plate; or
  - 2. A valid motor vehicle inspection certificate;

(b) Is wrecked, dismantled or partially dismantled, or discarded; or

(c) Is inoperable and has remained inoperable for more than:

1. Seventy-two consecutive hours, if the vehicle is on public property; or

2. Thirty consecutive days, if the vehicle is on private property.

(3) *Motor vehicle* means a vehicle that is subject to registration under Texas Transportation Code ch. 501.

(4) *Motor vehicle demolisher* means a person in the business of:

(a) Converting motor vehicles into processed scrap or scrap metal; or

(b) Wrecking or dismantling motor vehicles.

(5) *Outboard motor* means an outboard motor subject to registration under Texas Parks and Wildlife Code ch. 31.

(6) *Storage facility* includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

(7) *Watercraft* means a vessel subject to registration under Texas Parks and Wildlife Code Chapter 31.

## DIVISION 2. - ABANDONED MOTOR VEHICLES

Sec.13-3-2. - Authority to take into custody.

Sec. 13-3-3. - Taking into custody; notice.

Sec. 13-3-4. - Storage fees.

Sec. 13-3-5. - Auction or use of abandoned items; waiver of rights.

Sec. 13-3-6. - Auction proceeds.

Sec. 13-3-7. - Use of certain abandoned motor vehicles.

Sec. 13-3-2. - Authority to take into custody.

(a) The City of Lyford or police department may take into custody an abandoned motor vehicle, watercraft, or outboard motor found on public or private property.

(b) The City of Lyford or police department may use police personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, and store an abandoned motor vehicle, watercraft, or outboard motor taken into custody by the police department under this division.

**Sec. 13-3-3. - Taking into custody; notice.**

(a) The City of Lyford or police department shall send notice of abandonment pursuant to this division to the following:

(1) The last known registered owner of each motor vehicle, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Texas Transportation Code § 683.031; and

(2) Each lien holder recorded under Texas Transportation Code Ch. 501 for the motor vehicle or under Texas Parks and Wildlife Code Ch. 31 for the watercraft or outboard motor.

(b) The notice under subsection (a) of this section must:

(1) Be sent by certified mail not later than the tenth day after the date the agency:

a. Takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or

b. Receives the report under Texas Transportation Code § 683.031;

(2) Specify the year, make, model, and identification number of the item;

(3) Give the location of the facility where the item is being held;

(4) Inform the owner and lien holder of the right to claim the item not later than the 20th day after the date of the notice on payment of the following:

a. Towing, preservation, and storage charges; or

b. Garage keeper's charges and fees under Texas Transportation Code § 683.032; and

(5) State that failure of the owner or lien holder to claim the item during the period specified by subsection (b)(4) of this section is:

a. A waiver by that person of all right, title, and interest in the item; and

b. Consent to the sale of the item at a public auction.

(c) Notice by publication in one newspaper of general circulation in the area where the motor vehicle, watercraft, or outboard motor was abandoned is sufficient notice under this section if:

- (1) The identity of the last registered owner cannot be determined;
- (2) The registration has no address for the owner; or
- (3) The determination with reasonable certainty of the identity and address of all lien holders is impossible.

(d) Notice by publication:

- (1) Must be published in the same period that is required by subsection (b) of this section for notice by certified mail and contain all of the information required by that subsection; and
- (2) May contain a list of more than one abandoned motor vehicle, watercraft, or outboard motor.

**Sec. 13-3-4. - Storage fees.**

A law enforcement agency or the agent of a law enforcement agency that takes into custody an abandoned motor vehicle, watercraft, or outboard motor is entitled to reasonable storage fees:

- (1) For not more than ten days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and
- (2) Beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, watercraft, or outboard motor is removed.

**Sec. 13-3-5. - Auction or use of abandoned items; waiver of rights.**

(a) If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under section 13-3-3

- (1) The owner or lien holder:
  - a. Waives all rights and interests in the item; and
  - b. Consents to the sale of the item by public auction; and
- (2) The law enforcement agency may sell the item at a public auction or use the item as provided by section 13-3-7

(b) Proper notice of the auction shall be given. A garage keeper who has a garage keeper's lien shall be notified of the time and place of the auction.

(c) The purchaser of a motor vehicle, watercraft, or outboard motor:

(1) Takes title free and clear of all liens and claims of ownership;

(2) Shall receive a sales receipt from the law enforcement agency; and

(3) Is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title.

**Sec. 13-3-6. - Auction proceeds.**

(a) The City of Lyford or police department is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for the following:

(1) The cost of the auction;

(2) Towing, preservation, and storage fees resulting from the taking into custody; and

(3) The cost of notice or publication as required by section 13-3-3

(b) After deducting the reimbursement allowed under subsection (a) of this section, the proceeds of the sale shall be held for 90 days for the owner or lien holder of the vehicle.

(c) After the period provided by subsection (b) of this section, proceeds unclaimed by the owner or lien holder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

(d) The city may transfer funds in excess of \$1,000.00 from the account to the general revenue account to be used by the police department.

**Sec. 13-3-7. - Use of certain abandoned motor vehicles.**

(a) The City of Lyford or police department that takes an abandoned motor vehicle into custody that is not claimed under section 13-3-3 may use the vehicle for police purposes.

(b) The City of Lyford or police department shall auction the vehicle as provided by this division if the department discontinues use of the vehicle.

(c) This section does not apply to an abandoned vehicle on which there is a garage keeper's lien.

(d) This section does not apply to a vehicle that is removed to a privately owned storage facility.

### DIVISION 3. - JUNKED VEHICLES

Sec. 13-3-8. - Declaration of public nuisance.

Sec. 13-3-9. - Authority to enforce.

Sec. 13-3-10. - Offenses.

Sec. 13-3-11. - Notice.

Sec. 13-3-12. - Public hearing.

Sec. 13-3-13. - Abatement of violations.

Sec. 13-3-14. - Exceptions.

Sec. 13-3-15. - Administrative fee.

Sec. 13-3-16. - Effect of division on other codes.

Sec. 13-3-17. - City of Lyford or Chief of police may delegate authority.

Sec. 13-3-18. - Adoption of state abandoned motor vehicle act.

Sec. 13-3-8. - Declaration of public nuisance.

**A junked vehicle, including a part of a junked vehicle that is visible from a public place or public right-of-way:**

- (1) Is detrimental to the safety and welfare of the public;
- (2) Tends to reduce the value of private property;
- (3) Invites vandalism;
- (4) Creates a fire hazard;
- (5) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;

(6) Produces urban blight adverse to the maintenance and continuing development of the city; and

(7) Is a public nuisance.

Sec. 13-3-9. - Authority to enforce.

(a) The City of Lyford, chief of police, the environmental services director, the public health director, the building official and any code/ordinance enforcement officer is authorized to enter private property for the purpose of examining a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance.

(b) The City of Lyford, chief of police, the environmental services director, the public health director, the building official and any code enforcement officer is authorized to issue citations for violations of this division.

Sec. 13-3-10. - Offenses.

(a) A person commits an offense if the person maintains a public nuisance described by section 13-3-8

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.00.

(c) The court shall order abatement and removal of the nuisance on conviction.

Sec. 13-3-11. - Notice.

(a) The procedures for the abatement and removal of a public nuisance under this division must provide not less than ten days' notice of the nature of the nuisance and must be sent by certified mail, with a five-day return requested, to the following:

(1) The last known registered owner of the nuisance;

(2) Each lien holder of record of the nuisance; and

(3) The owner or occupant of:

a. The property on which the nuisance is located; or

b. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.



(b) The notice must state that:

(1) The nuisance must be abated and removed not later than the tenth day after the date on which the notice was mailed; and

(2) Any request for a hearing must be made before the ten-day period expires.

(c) 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, hand delivered.

(d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

Sec. 13-3-12. - Public hearing.

(a) A public hearing before the municipal court will be provided if requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which a junked motor vehicle or vehicle part is located, if requested within ten days after service of notice to comply as specified in section 94-3-11

(b) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(c) A resolution or order requiring the removal of a vehicle or vehicle part must 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.

Sec. 13-3-13. - Abatement of violations.

(a) Upon issuance of an order by the municipal court requiring the removal of a junked vehicle or part thereof, the chief of police, or any person acting under the direction of the chief of police, may, if such nuisance has not been abated, remove or cause to be removed the vehicle or part thereof which was the subject of such order.

(b) When any junked vehicle has been removed as provided in section 13-3-13, it shall be the duty of the chief of police to dispose of such vehicle by removal to a scrap yard or by sale to a demolisher for the highest bid or offer received thereof, or to remove such vehicle to any suitable site operated by the city for processing as scrap or salvage.

(b) A scrap yard, demolisher, or any suitable site for processing junked motor vehicles or vehicle parts is prohibited from reconstructing a junked motor vehicle or making the vehicle operable after it has been removed and delivered to the scrap yard, demolisher or any suitable site for processing scrap or salvage.

(c) Junked motor vehicles and motor vehicle parts removed or caused to be removed by the city shall be reported to the state department of transportation not later than the fifth day after the date of removal. The notice to the state must identify the vehicle or vehicle part.

Sec. 13-3-14. - Exceptions.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Antique vehicle* means a passenger car or truck that is at least 35 years old.

(2) *Motor vehicle collector* means a person who:

a. Owns one or more antique or special interest vehicles; and

b. 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.

(3) *Special interest vehicle* means 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.

(b) Procedures adopted under section 13-3-13 may not apply to a vehicle or vehicle part that is:

(1) Completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) Stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

a. Maintained in an orderly manner;

b. Not a health hazard; and

c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Sec. 13-3-15. - Administrative fee.

The City of Lyford is authorized to assess an administrative fee of \$50.00 for action taken by the city in order to abate violations of this division. The administrative fee shall be added to any and all other charges incurred by the city. The city is authorized to file a lien against the property from which the junked vehicle was removed for any and all delinquent charges, including the administrative fee specified in this section.

Sec. 13-3-16. - Effect of division on other codes.

This division does not affect a law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

Sec. 13-3-17. – City of Lyford or Chief of police may delegate authority.

Wherever the City of Lyford or chief of police is charged with the enforcement of this division, he may delegate such authority to any regularly salaried employee of the police department, except that he may authorize the removal of vehicles or parts thereof from public or private property by any person.

Sec. 13-3-18. – Adoption of state abandoned motor vehicle act.

In addition to the provisions of division 2 of this article, the city hereby adopts and makes applicable to the city the state abandoned motor vehicle act, Texas Transportation Code Chapter 683, as amended, and hereby grants and gives to its duly authorized agents the authority, right and privilege to do and perform all the necessary acts under such abandoned motor vehicle act to fully carry out and implement the purpose and intentions of such act.

State law reference—Transportation Code § 683.003.

Sec. 13-3-19. – Repeal of conflicting ordinances:

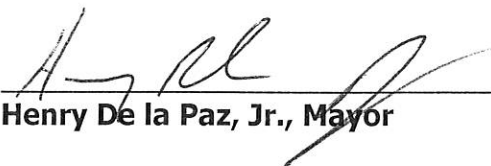
All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 13-3-20. – Effective date:

This ordinance shall be in full force and effect after passage, approval, adoption and publication of its description caption.

PASSED, AND APPROVED on the First Reading on this the 14<sup>th</sup> day of January, 2013.

PASSED, APPROVED, AND ADOPTED on the Second and Final Reading on this the 28<sup>th</sup> day of January, 2013.

  
Henry De la Paz, Jr., Mayor

Attest:

  
City Secretary