

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Manager

AGENDA DATE: August 16, 2005

CONTACT PERSON/PHONE: Joyce Wilson/541-4109

DISTRICT(S) AFFECTED: N/A

SUBJECT:

Approve an ordinance amending Title 9 to move the enforcement of the junked vehicle ordinance from Building Permits & Inspections to the Department of Environmental Services.

BACKGROUND / DISCUSSION:

The duties and administration of the junked vehicles ordinance are being moved from the building permits and inspection department to the environmental services department. The only changes being made to this ordinance are changes in six places to revise the listed department name to the environmental services department. No changes have been made to the substance of the ordinance.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.08 (JUNKED VEHICLES) TO SECTIONS 9.08.010 (DECLARED NUISANCE), 9.08.030 (ABATEMENT), 9.08.050 (ENFORCEMENT AUTHORITY), AND 9.08.060 (ENFORCEMENT) OF THE EL PASO CITY CODE TO TRANSFER THE DUTIES AND ADMINISTRATION FOR JUNKED VEHICLES TO THE DEPARTMENT OF ENVIRONMENTAL SERVICES; THE PENALTY BEING AS PROVIDED IN SECTION 9.08.070 OF THE EL PASO CITY CODE.

WHEREAS, for purposes of economy and efficiency the City has undertaken the reorganization of several departments in the City; and

WHEREAS, one of these changes has been to move the duties and administration for junked vehicles to the Department of Environmental Services Department, which necessitates that changes be made to the provisions in the City Code regarding junked vehicles.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Section 9.08.010 (Declared nuisance) of the El Paso City Code be amended to read as follows:

Section 9.08.010 Declared nuisance.

A. The city council finds that junked vehicles and junked vehicle parts that are located in a place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tend to reduce the value of the private property, invite vandalism, create fire hazards, constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city by producing urban blight adverse to the maintenance and continuing development of the city and are, therefore, declared to be public nuisances. It is unlawful for any person or persons to cause or maintain such public nuisances by wrecking, dismantling, rendering inoperable, abandoning or discarding his or their vehicle, vehicles or vehicle parts on the property of another or to suffer, permit or allow the same to be placed, located, maintained or exist upon his or their own real property.

B. Covering a junked vehicle with a cover that is custom-tailored or custom-fitted to the particular model of the vehicle being covered will abate the nuisance. The vehicle cover shall be made of a canvas of closely woven, coarse cloth of hemp, cotton or linen that is both water and mildew resistant and shall be maintained free of any tears or holes. To abate the nuisance, the vehicle shall be completely covered, with the exception of the

vehicle tires, and the cover shall be secured by a tie-down device. Tires shall be mounted on the vehicle and shall be properly inflated. All four tires must be on the ground. It is the vehicle owner's responsibility to ensure that the vehicle remains completely covered. Placing the junked vehicle behind trees or shrubbery does not abate the public nuisance. The environmental department and the police department are authorized to abate such nuisances under the terms and conditions hereinafter provided.

Section 2. That Section 9.08.030 (Abatement) of the El Paso City Code be amended to read as follows:

Section 9.08.030 Abatement.

A. Upon complaint or upon its own initiative, the environmental services department may initiate appropriate official action to remove and abate a public nuisance in the nature of a junked vehicle or junked vehicle part. Notice of the existence of a nuisance shall be in accordance with the procedures set forth in this chapter.

B. For a public nuisance that exists on private property, the environmental services department shall notify the last known registered owner of the junked vehicle or junked vehicle part, 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 such notice, or that a request for a hearing must be made by the owner or occupant before the expiration of the ten-day time period from the receipt of the notice. The notice shall be sent by certified mail with a five-day return receipt requested. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, further official action to abate the nuisance shall be continued to a date not less than ten days after the date of return.

C. For a public nuisance that exists on public property, the environmental services department shall notify the last known registered owner of the junked vehicle or junked vehicle part, any lienholder 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 the receipt of such notice, or that a request for a hearing must be made by the owner or occupant before the expiration of the ten-day period from the receipt of the notice. The notice shall be sent by certified mail with a five-day return receipt requested. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle or, if the last known registered owner is physically located, the notice may be hand delivered.

D. A public hearing shall be held before the municipal court of the city for determination of the existence of a junked vehicle or junked vehicle part 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 or junked vehicle part, any 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 the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The judge of the municipal court shall be the designated official to make such determination and upon the finding that the vehicle or vehicle part is a junked vehicle and constitutes a public nuisance, he shall enter an order requiring the removal of the vehicle or a part thereof. The order must include a description of the vehicle or vehicle part and the correct identification number and license number of the vehicle if the information is available at the site.

E. Before any city employee or any other person is authorized to remove a vehicle or vehicle part that is in violation of this chapter, he shall first obtain from the appropriate court an order for the removal of the junked vehicle or junked vehicle part, which shall include a description of the vehicle or vehicle part and the correct identification and license number of the vehicle if the information is available at the site where the vehicle or vehicle part is located.

F. A junked vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher or any suitable site operated by the city for processing of scrap or salvage; however, it is unlawful for any person to reconstruct or make operable any junked vehicle after it has been removed.

G. Not later than the fifth day after the removal of a junked vehicle or junked vehicle part, the city shall notify the State Department of Highways and Public Transportation of the removal of the junked vehicle or junked vehicle part, so that the department may cancel the certificate of title. The notice must identify the vehicle or vehicle part.

Section 3. That Section 9.08.050 (Enforcement authority) of the El Paso City Code be amended to read as follows:

Section 9.08.050 Enforcement authority.

A. The procedures provided for in this chapter must be administered by the environmental services department, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.

B. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the inspector has reasonable cause to believe that there exists upon any premises any condition or code violation which makes such vehicle or vehicle part in violation of this chapter, the inspector may enter such premises at all times to inspect the same or to perform any duty imposed upon the inspector by this chapter; provided, that if the premises are occupied, he shall first present proper credentials and request entry, and if the premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and request entry. If entry is refused, the inspector shall have recourse to every remedy provided by law to secure entry.

C. When the inspector has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any premises shall fail or neglect, after proper request is made as herein

provided, to promptly permit entry thereon by the inspector for the purpose of inspection and examination pursuant to this chapter.

Section 4. That Section 9.08.060 (Enforcement) of the El Paso City Code be amended to read as follows:

Section 9.08.060 Enforcement.

If the public nuisance is not removed and abated and no hearing is requested within the ten-day period provided for herein, the environmental services department may file a complaint concerning the public nuisance in an appropriate court.

Section 5. Except as expressly herein amended, Chapter 2.40 of the El Paso City Code, shall remain in full force and effect.

Section 6. This Ordinance shall be effective as of September 1, 2005.

ADOPTED this 30th day of August, 2005.

THE CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Elaine S. Hengen
Assistant City Attorney

Patricia D. Aduato
Deputy City Manager