Ordinances Governing

NUISANCE

in the

CITY OF ARLINGTON

TEXAS

Amended by Ordinance No. 17-058

(September 26, 2017)

(Chapter Designator: NUISANCE)

ORDINANCE HISTORY

Number	Date of Adoption	Comments
89-60	6/20/89	Amend **Article III**, **Section 3.02**, revision of fine amounts; amend **Article IV**, responsibility for nuisance abatement costs.
89-127	10/24/89	Revision of entire **Article V**, Nuisance Personal Property.
91-95	10/01/91	Amend **Article II**, by the addition of new **Section 2.23**, Household Appliances; amend **Article III**, **Section 3.01**, Committing Nuisances, declaring such act to be unlawful, and **Section 3.02**, Penalty for Violation, providing for a penalty.
94-154	11/15/94	Addition of new **Article VIII**, Graffiti, relative to graffiti removal.
99-41	03/23/99	Amend **Article VI**, Junked Vehicles, relative to updating said ordinance to fully conform to amendments to the provisions of controlling state law.
99-133	10/26/99	Amend **Article VI**, Junked (Inoperable) Vehicles, by the amendment of the title of the article; by the addition of a preamble; **Section 6.02**, Definitions, by the amendment of the definition of "Junked Vehicle"; **Section 6.06**, Procedure for Disposition of Junked Vehicles, by the addition of a new **Subsection (E)** and the relettering of the remaining subsections, relative to updating the ordinance to conform to recent changes in state law.
99-153	12/07/99	Amend **Article IV**, Abatement, by the addition of a preamble; **Section 4.03**, Abatement Procedure, relative to updating the ordinance to conform to recent changes in state law; amend **Section 4.04**, Authority to Enforce Chapter, relative to the correction of the name of the Capital Improvements Department.

ORDINANCE HISTORY

Number	Date of Adoption	Comments
99-154	12/14/99	Amend **Article VII**, Parking of Vehicles, by the addition of **Section 7.03**, Public Parking of Vehicle for Sale Prohibited; providing for a fine of up to **$500**.
02-087	08/06/02	Amend **Article I**, Definitions and Prohibitions, **Section 1.02**, Power to Define and Prohibit, **Subsection (D)**, relative to updating the legal reference; amend **Article II**, Nuisances Enumerated, **Section 2.17**, Substandard Structure, relative to updating the legal reference; **Section 2.20**, Miscellaneous Conditions, relative to updating the legal reference; amend **Article IV**, Abatement, **Section 4.03**, Abatement Procedure, **Subsection (D)**, relative to updating the reference to the Director of Neighborhood Services; **Section 4.04**, Authority to Enforce Chapter, relative to updating the reference to the Director of Neighborhood Services; amend **Article VI**, Junked Vehicles, **Section 6.02**, Definitions, relative to the amendment of the definitions for "Antique Vehicle" and "Junked Vehicle"; **Section 6.06**, Procedure for Disposition of Junked Vehicles, **Subsection (A)**, relative to additional methods of giving notice to abate; **Section 6.06**, **Subsection (B)**, relative to additional methods of giving notice to abate; **Section 6.06**, **Subsection (D)**, relative to updating the reference to the Director of Neighborhood Services; **Section 6.06**, **Subsection (G)**, relative to updating the reference to the Neighborhood Services Department.
04-114	12/20/04	Amend **Article VI**, Junked Vehicles, **Section 6.02**, Definitions, relative to the definition of "Junked Vehicle"; **Section 6.03**, Junked (Inoperable) Vehicles Declared a Public Nuisance; **Section 6.05**, Exceptions, **Subsection (B)**; **Section 6.06**, Procedure for Disposition of Junked Vehicles, broadening the junked vehicle definition, clarifying antique or special interest exceptions, stipulating the Director of Neighborhood

ORDINANCE HISTORY

Number	Date of Adoption	Comments
		Services as the responsible authority and clarifying procedures for disposition of junked vehicles.
06-088	08/22/06	Amend entire chapter relative to the public nuisance of graffiti, failure to remove graffiti and City abatement of graffiti, updating the chapter and organizing various sections.
07-045	06/19/07	Amend entire chapter relative to findings, nuisance definitions, the process of eliminating nuisance conditions that contribute to unsafe neighborhoods, updating the chapter, and organizing various sections.
07-098	12/18/07	Amend **Article I**, Definitions and Prohibitions, **Section 1.02**, Definitions, by the amendment of the definition of Junked Vehicle; amend **Article IV**, Abatement, **Section 4.04**, Abatement Procedure, **Subsection (D)**, relative to specifying fees; amend **Article VI**, Junked and Nuisance Vehicles, **Section 6.06**, Procedure for Disposition of Junked and Nuisance Vehicles, **Subsection (A)**, relative to specifying fees; amend **Article VIII**, Graffiti, **Section 8.04**, Assessment of Expenses, relative to specifying fees.
09-064	10/13/09	Amend **Article VIII**, Graffiti, **Section 8.02**, Graffiti Removal Requirement, Offense; **Section 8.03**, including the title of **Section 8.03; Section 8.04**, Assessment of Expenses; and **Section 8.07**, Enforcement, **Subsection (B)**; relative to amending graffiti provisions to conform to new state law requirements including offer to remove graffiti free of charge and notice requirements.
15-013	03/03/15	Amend **Article I**, Definitions and Prohibitions, **Section 1.02**, Definitions, relative to the amendment of the definition of "Junked Vehicle."

ORDINANCE HISTORY

Number	Date of Adoption	Comments
16-021	04/26/16	Amend **Article II**, Nuisances Enumerated, **Section 2.03**, Other Nuisances Enumerated, by the addition of **Subsection (N)**; amend **Article V**, Nuisance Personal Property, **Section 5.01**, Declaring Certain Property a Nuisance and Authorizing Impounding, **Subsection (B)**; to outline abatement procedures.
17-058	09/26/17	Amend **Article** I, Definitions and Prohibitions, **Section 1.02**, Definitions, by the amendment of the definition of Dilapidated Fence.

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ARTICLE I

DEFINITIONS AND PROHIBITIONS

Section 1.01 Findings and Purpose

A. The Arlington City Council makes the following findings:

1. A nuisance is a condition which substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities attempting to use and enjoy land.

2. A nuisance is a condition that may cause physical harm to property; physical harm to a person on his or her property; or emotional harm to a person from the deprivation of the enjoyment of his or her property, such as by fear, apprehension, offense, or loss of peace of mind.

3. Whatever is dangerous to human health or welfare, or whatever renders the ground, water, air or food a hazard to human health is declared to be a nuisance;

4. The condition of neglect of maintenance of property and the condition of vacant property both depreciate the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which the property is situated.

5. It is necessary to provide for the abatement of nuisance conditions in the interest of public necessity when such conditions are offensive or annoying to the senses and detrimental to property values and community appearance.

6. It is further necessary to the extent of public necessity to provide for the abatement of nuisance conditions that interfere with the comfortable enjoyment of adjacent property or hazardous or injurious conditions detrimental to the health, safety or welfare of the general public.

B. The purpose of this Chapter is to:

1. Promote the public health, safety and welfare by requiring a minimum level of maintenance of private property to protect the livability, appearance, and economic stability of the City.

2. Protect the public from the health and safety hazards and the impairment of property values that result from the neglect and deterioration of property.

3. Eliminate property conditions that contribute to blighted neighborhoods.

4. Prevent the spread of disease.

5. Safeguard the health, safety and welfare of the people by maintaining property in a safe condition.

6. Reduce the threat to health, safety, welfare, and reduced economic value due to the decline in property conditions by delineating the circumstances under which such conditions may be considered illegal nuisances and therefore abated.

7. Abate nuisances in the best interest of the health, safety and welfare of the residents of the City because use and enjoyment of property or premises in proximity to one another depends upon maintenance of those properties free of nuisance conditions, and to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

Section 1.02 Definitions

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Administrator - the City Manager designated Department Directors or their designees that are responsible for enforcement of this chapter.

Aerosol Paint - an aerosolized paint product, including a clear or pigmented lacquer or finish.

Aircraft - any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

All-Weather Parking Facility - asphalt or concrete paving suitable for vehicle parking.

Alley - includes property within the limits of a designated alley as reflected in Tarrant County real estate records including utility and other easements within the boundaries of an alley.

Antique Vehicle - a passenger car or truck that is at least 25 years old.

Dilapidated Fence - any fence in a dilapidated, improper state of repair that causes a safety or health concern. It includes any:

1. fencing that by its age or deteriorating condition lists, leans, buckles or is broken or has exposed pieces projecting, protruding or laying in a manner which could fall or be hazardous to persons walking or driving along public property including street or right-of-way or public easements;

2. fencing that by improper position on or near the ground is situated in such a manner as to offer harborage to vermin;

3. fencing that is damaged by animals or by other means such that the fence condition is unsafe and deleterious to the livability of the neighborhood;

4. fencing that has any portion of its pickets or structural components either damaged, missing or rotted;

5. fencing with support posts, cross members, pickets, braces, bolts, nails, supporting frame, or fastenings in a state of disrepair due to deterioration, infestation by insects or other vermin, rot, rust, or loosening;

6. fencing with broken or severely bent metal posts or torn, cut, or ripped metal fencing;

7. fencing with loose bricks, stones, mortar, masonry, or similar material; or

8. fencing that is braced by guy wires, braces, or any other material that may be visible from a public street, right-of-way, alleyway, or property or easement controlled by the City. (Amend Ord 17-058, 9/26/17)

Fireworks - any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive or flammable compound, or any tablet or

other device containing an explosive substance, except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

Garbage - all decayable wastes, including vegetable, animal and fish offal and carcasses of such animals and fish, and shall include all such substances from all public and private establishments and from all residences.

Graffiti - any unauthorized inscription, word, signature, symbol or other marking of any sort which is etched, written, painted, drawn or applied in any other way to any structure, building or property of any sort or to any portion or element thereof, whether the property is public or private.

Guardian - a person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

Handbill - any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

Hearing Officer – the Administrator.

Junk - all worn-out, worthless, and discarded material, in general, including but not limited to old iron or other metal, glass, paper, cordage or other waste or discarded materials.

Junked Vehicle - a vehicle that:

1. is self-propelled; and

2. displays an expired license plate or does not display any license plate; and

3. is:

    a. wrecked, dismantled or partially dismantled, or discarded, or

    b. inoperable and has remained inoperable for more than:

        i. seventy-two (72) consecutive hours, if the vehicle is on public property;

ii. thirty (30) consecutive days if the vehicle is on private property. (Amend Ord 15-013, 3/3/15)

Landscape in an Unsafe State of Disrepair – any vegetation, landscape, trees, bushes, shrubs, vines, brush or ground cover plants that due to lack of trimming, pruning, or shaping or other neglect is in an unsafe state of disrepair. Landscape in an unsafe state of disrepair may include trees or shrubs or vines or brush or ground cover that presents a safety hazard due to death or disease or damage.

Litter - all garbage, refuse and rubbish, as defined herein, and all other material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

Littering - the discarding of garbage, paper, and other forms of refuse in any place other than officially designated refuse containers or disposal units.

Minor - any person under seventeen (17) years of age.

Motor Vehicle - any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

Motor Vehicle Collector - a person who owns one or more antique or special interest vehicles and who collects, purchases, 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 for historic interest.

Motor Vehicle Demolisher - any person in the business of converting motor vehicles into processed scrap or scrap metal, or to otherwise wreck or dismantle motor vehicles.

Nuisance Tarp - material used for screening from view a vehicle, boat, trailer or other item that is torn or defective or worn or is not fitted and manufactured for a specific vehicle.

Nuisance Vehicle - any vehicle, including an all-terrain vehicle, boat, or personal watercraft, that:

1. is self-propelled and

2. is:

   a. wrecked, dismantled or partially dismantled, or discarded, or unattended on jack stands or blocks or other means, or

b. in a condition with two or more flat tires for 14 days or more, or is missing two or more wheels for 14 days or more, or

c. used primarily for storage and remains unmoved for 14 days or more, or

d. a habitat for rats, mice or snakes, or

e. substantially disfigured, damaged, or disintegrated, or

f. ruined, destroyed or demolished; or

g. inoperable and has remained inoperable for more than:

i. seventy-two (72) consecutive hours, if the vehicle is on public property;

ii. thirty (30) consecutive days if the vehicle is on private property.

Owner – occupant or person otherwise having supervision or control of any lot, tract, or parcel of land or portion thereof or any building or portion thereof.

Parent - a person who is a natural parent, adoptive parent or stepparent of another person.

Person - any natural person, association of persons, partnership, corporation, agent or officer, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, administrators, parents, and guardians.

Public Highway - the entire width between property lines including the non-paved area of a street right-of-way, of any road, street, way, thoroughfare, bridge, public beach, or park in this City not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic or which is used as a public recreational area and/or over which the City has legislative jurisdiction under its police power.

Rear Yard - that area of a lot circumscribed by the back lot line, the side lot lines extending to imaginary lines perpendicular from the back corners of the residential structure, and the back side of the residential structure.

Refuse - all garbage, rubbish, and all other decayable and non-decayable waste, including vegetable, animal and fish carcasses, except sewage from all public and private establishments and residences.

Rubbish - all non-decayable wastes, from all public and private establishments and from all residences.

Screening Fence - a barrier at least six feet (6') in height of stone, brick, pierced brick or block, uniformly colored wood or other permanent material which forms a visual barrier of equal character, density and design; provided, however, any such structure in excess of eight feet (8') in height shall be deemed a wall subject to the provisions of the Building Code of the City of Arlington. For the purposes of this Chapter, a vehicle shall be deemed to be screened from view when it is behind a screening fence.

Side Yard - the area behind an imaginary line extending perpendicularly from the front corner of the residential structure to the side lot line, extending to an imaginary line perpendicular to the side lot line which touches the back corner of the residential structure closest to the side lot line at which point the "rear yard" begins.

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

Storage Facility - a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Unauthorized - without the permission of the owner or person in control of property, whether public or private.

Unauthorized Location for Vehicle for Sale - any area where a Vehicle for Sale is parked when that area does not have both a certificate of occupancy issued by the City of Arlington for the sale of vehicles and a license from the Texas Department of Transportation for the sale of vehicles at that location.

Vehicle for Sale - any motor vehicle, boat, trailer, jet ski, recreational vehicle, camper or other vehicle (collectively called "vehicle" or "vehicles") having displayed thereon any writing or signage indicating such vehicle is for sale.

Section 1.03 Power to Define and Prohibit

The City of Arlington, acting by and through its duly authorized officers, agents and representatives, as designated herein, shall have the power to:

A. Define all nuisances and prohibit the same within the City and outside the City limits for a distance of five thousand (5,000) feet (provided that this ordinance

shall not apply within any portion of such five thousand foot area which is contained within the territory of any other municipal corporation);

B. Police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said City and lying outside of said City;

C. Prohibit the pollution of any stream, drain or tributaries thereof which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any watersheds and the policing of same;

D. Inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the City, from which meat or milk is furnished to the inhabitants of the City, as provided in Texas Local Government Code, Sections 51.071–51.079, which grants such powers and authorizes such acts. All powers granted under such article of the Revised Civil Statutes are specifically adopted and made a part hereof.

Section 1.04 <u>Authority to Enforce Chapter</u>

The City Manager designated Department Directors, or their designees, are authorized to enforce the terms and conditions of this Chapter when violations occur. (Amend Ord 07-045, 6/19/07)

ARTICLE II

NUISANCES ENUMERATED

Section 2.01 Property Blight Declared a Nuisance

A. Any property upon which there exists property blight as set forth in the provisions of this Chapter is hereby declared and determined to be a nuisance.

B. The existence of any one or more of the conditions or activities described in Section 2.02 constitutes property blight.

C. A building, structure or premise is in a state of disrepair when any nuisance enumerated in Section 2.02 exists.

D. No person, whether as owner, agent, manager, operator, lessee, tenant, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.

E. No person, whether as owner, agent, manager, operator, lessee, sublessee, tenant or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this Chapter or any order issued pursuant to the provisions of this Chapter.

Section 2.02 Property Blight Nuisances Enumerated

The following shall constitute nuisances when caused, allowed, maintained, or suffered to exist within the jurisdiction of the City of Arlington:

A. Graffiti. Any part of the property, including any building or structure located on the property that is visible from a street or neighboring property, that contains Graffiti. Any property containing personal property items which contain graffiti and which may be viewed from the public way or a neighboring property constitutes property blight.

B. Unclean Premises. Any public or private property, any yards, lots, alleys, stables, animal pens or enclosures for animals which become offensive to persons of ordinary sensibilities due to objectionable odors or accumulation of waste and fecal matter, cellars, vaults, drains, pools, wells, cisterns, privies, sewers, grounds,

premises, or buildings of any character, containing accumulations of litter, limbs, unsanitary matter of any kind, refuse, garbage, rubbish, junk, dead carcasses, decaying flesh, fish, fowls, vegetables, stagnant water or other stagnant or unsanitary liquids or unsanitary water on the ground or in a vessel, flammable liquids, slops, trash, or other deposits or substances of any and every character, which are likely to or do become unwholesome, filthy, unsightly, offensive, or unsanitary or likely to create or engender disease. Unclean Premises shall also be areas or conditions that harbor rodents or parasitic insects, or promotes mosquito breeding; or with dilapidated fences, or poison oak or poison ivy or other poisonous plant within 50 feet of a structure or fence line.

C. Fire Hazards. Any condition prohibited by the City of Arlington Fire Code.

D. Substandard Structure. Any structure which is in violation of Section 202 of the City of Arlington Uniform Housing Code, as amended, or any structure in violation of Section 16.03 of the Construction Chapter, as amended.

E. Exposure in Toilets. Any privy or water closet in such condition as to expose to view from without any person therein or contents thereof.

F. Stagnant, Foul and Offensive Water. Any stagnant, foul or offensive water upon any lot or other premises or under the floor of any building.

G. Animals. Keeping, breeding or raising animals in or about any place or premises in such numbers or in such manner that the same may become annoying, offensive or disturbing to the adjacent residents of or those passing by such places or premises or which by reason of numbers create filth in or about such premises or premises adjacent thereto.

H. Weeds. Weeds, brush or any vegetation which is unsightly, unsanitary or unsafe growing to a height greater than twelve (12) inches upon any property. It shall be the duty of all persons to keep the area from the line of their property to the curb line, edge of asphalt or point at which the roadway begins, regardless of the type of said roadway next adjacent to the property, free and clear of the matter referenced above. All vegetation not regularly cultivated which exceeds twelve (12) inches in height shall be presumed to be objectionable, unsanitary and unsightly. It is an affirmative defense to prosecution that the weeds, brush or vegetation which is growing to a height greater than twelve (12) inches is a garden, a natural habitat preservation area, or agricultural crop.

I. Pollution of Surface Waters. Any condition prohibited by the Health Chapter of the City of Arlington Code, as amended.

J. Sight Obstruction. Any condition prohibited by Section 9.02 and 9.03 of the Streets Chapter of the City of Arlington Code, as amended.

K. Household Appliances. Any broken, discarded or abandoned refrigerator, freezer, water heater, dishwasher, range, oven, trash compactor, washing machine, clothes dryer or similar appliance located in the front, rear or side yard, including porches and unsecured garages, of any premises used as a residence regardless of zoning, or on any vacant lot.

L. Landscape in an Unsafe State of Disrepair. Any vegetation, landscape, trees, bushes, shrubs, vines, brush or ground cover plants that due to lack of trimming, pruning, or shaping or other neglect is in a state of disrepair. Landscape in an unsafe state of disrepair may include trees or shrubs or vines or brush or ground cover that presents a safety hazard due to death or disease or damage.

M. Nuisance Outside Storage. Storage or accumulation outside of an enclosed structure including the storage or accumulation under a carport or covered patio or other projecting overhang on any lot, tract or parcel of land or portion thereof of any objectionable, impure, unwholesome, filthy, or unsanitary matter including the storage or accumulation of the following items that present health or safety hazards:

1. Broken, inoperable, deteriorated, dismantled or discarded indoor (non-weather resistant) furniture, appliances, machines, tools, boxes, and cartons, and lawn maintenance equipment;

2. Used, deteriorated or discarded building materials or supplies;

3. Wet, broken or leaking barrels, casks, or boxes;

4. Used, discarded, or broken automotive parts or equipment including engines, transmissions, electrical parts, suspension parts, vehicle body parts, batteries, tires, wheels, hubcaps and other motor vehicle parts;

5. Firewood that is not stacked a minimum of twelve (12) inches off the ground;

6. Trash, garbage or other refuse; or

7. Any other material which tends to decay or become putrid or provides harborage for rodents and other vermin.

The following are exceptions to Nuisance Outside Storage:

1. Building materials or supplies stored in a workmanlike manner as part of and in conjunction with, an active building permit and is in compliance with all other City ordinances.

2. Non-hazardous material or items of any kind:

   a. awaiting pickup by the city or other sanitation service;

   b. in a container or bag as approved by the city; and

   c. in an approved location for the city or other sanitation service pickup.

The following is an affirmative defense to Nuisance Outside Storage:

1. Outside storage with a legal land use and is in compliance with all other City ordinances.

N. Nuisance Tarp. Material used for screening from view a vehicle, boat, trailer or other item that is torn or defective or worn or is not fitted and manufactured for a specific vehicle.

Section 2.03 Other Nuisances Enumerated

The following shall constitute nuisances when caused, allowed, maintained, or suffered to exist within the jurisdiction of the City of Arlington:

A. Hauling Dead Carcasses. Hauling, carrying or transporting any slaughtered or dead animals or meat on, along, or upon any street, alley, highway, park or public grounds without having the same covered and protected from public view and screened from insects, germs and dust.

B. Opening in Streets, Etc. Keeping or leaving open or unclosed any vault, hole, cellar, or other opening on any property, street, sidewalk, alley, or other public

thoroughfare, unless the same be sufficiently protected and guarded to insure safety to all passing by or near same.

C. Burning Certain Substances. Burning in the open: hair, leather, rags or other substances emitting an offensive, unhealthful or annoying smell, smoke or odor.

D. Slaughter Houses. Keeping, having or operating or suffering or permitting to exist on premises not zoned for such use any slaughter house, butcher pen, or other place where animals, fowls, or birds are slaughtered or killed.

E. Manner of Placing Litter in Receptacles. Placing litter in public receptacles or in authorized private receptacles in such manner as to allow it to be carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

F. Throwing, Depositing, Handbills in Public Places. Throwing or depositing any commercial or noncommercial handbills in or upon any sidewalk, street or other public place.

G. Dropping Litter From Aircraft. Throwing out, dropping or depositing from an aircraft any litter, handbills or any other object.

H. Fireworks. Possessing, keeping, storing, using, manufacturing, assembling, selling, handling, transporting, receiving, or offering for sale any fireworks, within the city and outside the city limits for a distance of 5,000 feet (provided that this section shall not apply within any portion of such 5,000 foot distance which is contained within the territory of any other municipal corporation).

1. It shall be an affirmative defense to Section 2.03(H) that the possession, sale, or use was for signaling devices for current daily consumption by railroads, or other transportation businesses requiring them; or that the possession, sale, or use was for normal stocks of flashlight compositions by photographers, or dealers in photograph supplies; or that the possession, sale, or use was for signal flares or rockets for military or police use.

2. It shall be an affirmative defense to Section 2.03(H) that the possession, sale, or use was for supervised public displays of fireworks by the municipality, fair associations, amusement parks and other organizations or groups of individuals, provided that a permit for such fireworks display has theretofore been obtained from the Fire Marshal. The Fire Marshal

shall have the power to adopt reasonable rules and regulations for the granting of such permits to include but not be limited to the following:

a. Applications for permits shall be made in writing at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sale, possession, use, and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

b. The permittee shall furnish proof of a liability insurance policy in coverage amounts of $100,000 per person, $300,000 per incident, and $100,000 property damage conditioned for the payment of damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or subcontractors.

I. Defecating or Urinating in Public Places. Defecating or urinating upon any street, alley, park or any public grounds or upon any place visible to persons in any public street or other public place or private residence.

J. Sleeping in Public Places. Sleeping upon any alley, street, sidewalk, or other public grounds to which the people may resort.

K. Vehicle Spillage. Causing any items to be dropped or fall from a vehicle upon any street, alley, or other public way or upon the private property of any person without his effective consent.

L. Miscellaneous Conditions. Any condition prohibited by Chapter 341 of the Texas Health and Safety Code, as amended, entitled Minimum Standards of Sanitation and Health Protection Measures.

M. Noise.

1. The keeping of any animal or bird which, by causing frequent or long-continued noise disturbs the peace and quiet of persons in the neighborhood or the occupants of adjacent premises who have and possess normal nervous sensibilities.

2. Any condition prohibited by the Texas Penal Code, Section 42.01(a)(5), as amended. (Amend Ord 07-045, 6/19/07)

N. Noncompliant Donation Boxes.

1. The placing or maintaining of any donation box that does not comply with the conditions and requirements of this Chapter and the "Donation Boxes" Chapter of the Code of the City of Arlington, Texas, 1987, as amended.

2. Noncompliant donation boxes are subject to enforcement by criminal citations; administrative adjudication under Article IX of the "Municipal Court" Chapter of the Code of the City of Arlington, Texas, 1987, as amended; civil court proceedings (including injunctive relief); and the abatement enforcement provisions of this Chapter. (Amend Ord 16-021, 4/26/16)

ARTICLE III

PROHIBITED ACTS

Section 3.01 Committing Nuisances

It shall be unlawful for any owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, whether occupied or unoccupied, improved or unimproved, to commit an act or continue or maintain a condition declared to be a nuisance under the terms of this Code of Ordinances.

Section 3.02 Penalty for Violation

A. Any person violating Sections 2.02(A), Graffiti; 2.02(J), Sight Obstruction; 2.02(K), Household Appliances; 2.02(L), Landscape in an Unsafe State of Disrepair; 2.02(M), Nuisance Outside Storage; 2.02(N), Nuisance Tarp; 2.03(E),Manner of Placing Litter in Receptacles; 2.03(F), Throwing, Depositing Handbills in Public Places; 2.03(G), Dropping Litter From Aircraft; 2.03(J), Sleeping in Public Places; 2.03(K), Vehicle Spillage; 2.03(L), Miscellaneous Conditions; or 2.03(M), Noise; of Article II of this chapter shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents ($500.00).

B. Any person violating any section of Article II or committing an act or continuing or maintaining a condition declared to be a nuisance by this Code of Ordinances, other than those enumerated in Section 3.02(A) hereof, shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00) as allowed by law.

(Amend Ord 07-045, 6/19/07)

ARTICLE IV

ABATEMENT

Section 4.01 Purpose

The City of Arlington desires that property be maintained in an attractive and pleasant manner free of all nuisances. Premises that become unattractive because of high vegetation or other nuisance invite deterioration, vandalism and infestation and undermine the integrity of the neighborhoods and commercial areas where they exist. The procedures set forth in Nuisance Chapter Article IV in the City of Arlington Code of Ordinances apply to the abatement of all nuisances, unless otherwise specified.

Section 4.02 Abatement by Owner - Duty

It shall be the duty of the owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, whether occupied or unoccupied, improved or unimproved, on or in which any condition declared to be a nuisance under the terms of this Code of Ordinances is found to exist, to remove or cause to be removed the prohibited nuisance at no cost to the City of Arlington. Failure to so remove or cause to be removed such a nuisance after notice to do so by City shall constitute a misdemeanor offense.

Section 4.03 Abatement by City

Whenever any nuisance, as declared under the terms of this Code of Ordinances, with the exception of Section 2.02(A), Graffiti, is found to exist, and no owner, occupant or person otherwise having supervision or control of the premises containing such nuisance can be located, or when immediate abatement of said nuisance is deemed necessary by the City of Arlington for the public health, safety and general welfare of its citizens, the City shall initiate the abatement process in accordance with Section 4.04 below. Costs associated with such nuisance abatement shall be borne by the owner, occupant or other person in control of the premises.

Section 4.04 <u>Abatement Procedure</u>

A. If any owner shall fail to comply with the provisions of Section 4.02 above, said person may, in addition to being charged with a violation of this Chapter, be given notice to comply with the provisions of Section 4.02 above. The notice shall contain a statement explaining the right of the owner to request a hearing for the purpose of determining whether the conditions constitute a nuisance under this Chapter. The notice shall be given by letter addressed and delivered to such person either by mailing it to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located or by personal delivery. If notice cannot be made in such manner, the notice shall be given by publication at least once, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings. If the notice is mailed to the property owner in accordance with this section and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date mailed. If notice is made by publication, the publication shall be in a newspaper of general circulation in the community.

B. An owner, after notice required in Subsection (A) above, shall respond to the notice before the expiration of seven (7) days from the date the notice has been mailed and delivered or personally delivered or published or posted.

1. If the Administrator has not received a timely request for a hearing, the City of Arlington may enter the premises containing the nuisance condition as allowed by law in accordance with this section and do or cause to be done any work necessary to bring such premises into compliance with this Chapter.

2. If the Administrator has received a request for hearing, the following shall occur:

   a. The Administrator will schedule a hearing within five (5) days after the date the request is filed unless the parties agree to a certain date beyond the five (5) days. The owner request for hearing must contain an address and a phone number where notice of hearing can be provided. At the hearing, the owner and the City may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the Administrator and subject to approval by the City Attorney.

   b. If, after the hearing, the Hearing Officer finds that conditions constituting a nuisance exist, the Hearing Officer shall give written notice of the findings in an abatement order to the owner that, unless the conditions are abated or the order is appealed within three (3) days from the date of the order, the City may enter upon the property as allowed by law in accordance with this section and do or cause to be done any work necessary to bring such premises into compliance with this Chapter.

   c. The determination of the Hearing Officer shall be final unless timely appealed by the owner to a court of competent jurisdiction within three (3) days from the date of receipt of the abatement order. The filing of such appeal shall have the effect of staying the order pending a judicial determination of the appeal unless the nuisance condition is reasonably determined by the Hearing Officer to be an immediate threat to health or safety.

C. In a notice provided under this section, the City may also include terms of an annual notice which conforms to this subsection and Chapter 342 of the Texas Health and Safety Code, except as otherwise noted in this Code of Ordinances. The annual notice terms shall inform the owner by regular mail and a posting on the property that, if the owner commits another violation of the same kind or nature that poses a danger to the public

health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by the terms of the annual notice occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without further notice may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property as provided in this section.

D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper and the Administrative Fee as set by resolution of City Council for City administrative expenses, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter. (Amend Ord 07-098, 12/18/07)

E. Any police officer of the City of Arlington or any other peace officer is empowered to stop the transportation of and detain any nuisance found being

transported illegally until the appropriate officials which are hereinafter designated can be notified in order that the said nuisance may be seized and destroyed in accordance with the terms of this section.

F. Notwithstanding any penal, lien or notice provisions of this ordinance, the City Attorney of the City of Arlington is authorized to file suit on behalf of said City for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of a nuisance and to aid the hereinafter designated officials in the discharge of their duties and to particularly prevent any person from interfering or attempting to interfere with the seizure and destruction of such nuisance.

G. The hereinafter designated officials are hereby authorized to enter the public areas of any building or premises, not a private residence or dwelling, at all reasonable times where the unlawful presence of a nuisance is suspected, in order to inspect the same for the presence of such nuisance or to abate or destroy the nuisance, if such building or premises are occupied and conducting business. Such official shall first present proper credentials and demand entry, unless otherwise permitted by law. If such building or premises are unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if no owner or other person having charge or control of the building or premises can be located, or the area to be inspected is not a public area, the hereinafter designated officials shall have recourse to every remedy provided by law to secure entry.

(Amend Ord 07-045, 6/19/07)

ARTICLE V

NUISANCE PERSONAL PROPERTY

Section 5.01 Declaring Certain Property a Nuisance and Authorizing Impounding

A. Any personal property or obstruction placed, left standing, erected or lying in violation of any ordinance of the City, or left unattended for more than forty-eight (48) hours in or upon any public street, alley, sidewalk, park or other public property of the City is hereby declared to be a nuisance.

B. Any personal property or obstruction placed, left standing, erected or lying on private property without the consent of the owner, occupant or person otherwise in charge of the premises on which same is located is hereby declared to be a nuisance. A noncompliant donation box as defined by Subsection 2.03(N), as amended, is hereby declared to be a nuisance. (Amend Ord 16-021, 4/26/16)

C. Any property found in violation of paragraphs A or B of this section and declared to be a nuisance may be removed summarily by or at the direction of the City Manager designated Department Directors or their designees, and shall be taken to a place of impoundment designated by the Chief of Police and shall be kept there until redeemed or sold as hereinafter provided.

D. All personal property found in violation of paragraphs A or B of this section shall be kept at a designated place of impoundment and shall be held until claimed or required to be processed in accordance with Section 5.04.

E. It shall be unlawful and a violation hereof for any person to cause to exist any of the conditions hereinabove declared to be nuisances.

F. Providing, however, that nothing in paragraphs A and B of this section shall be construed as declaring the following items of personal property as nuisances, to-wit:

1. Weapons (as defined in the Texas Penal Code);

2. Property, the possession, use, sale, manufacture, transportation, repair or delivery of which is prohibited by law, or property (other than abandoned, lost or mislaid) which is regulated by Sections 5.03 or 5.04;

3. Motor vehicles.

Section 5.02 <u>Declaring Weapons a Nuisance and Authorizing Impounding, Sale and Destruction</u>

A. All weapons, as defined in V.T.C.A., Penal Code, Chapter 46, placed, left standing or lying in violation of any ordinance of the City, or left unattended in or upon any public street, alley, sidewalk, park or other public property of the City, are hereby declared to be a nuisance.

B. All weapons, as defined in V.T.C.A., Penal Code, Chapter 46, placed, left standing or lying in violation of any ordinance of the City, or left unattended in or upon private property without the consent of the owner, occupant or person otherwise in charge of the premises on which the same is located, may be declared to be a nuisance.

C. Any weapons found in violation of paragraphs A or B of this section and declared to be a nuisance may be removed summarily by or at the direction of the Chief of Police or any police officer of the City and shall be kept there until redeemed or, as hereinafter provided, otherwise disposed of.

D. 1. All weapons found in violation of A or B of this section (provided that nothing herein shall require the release of a weapon, regulated by Article 18.18 or 18.19, Texas Code of Criminal Procedure), which are not being held as evidence in any pending case, shall be held until processed in accordance with Section 5.04.

2. In the event destruction of the weapon is authorized, it shall be destroyed in the presence of two (2) police officers of the rank of Lieutenant or higher, who shall make a report under oath, listing the make, model, type and serial number of the property destroyed, together with the time, date, place and manner of destruction. Provided, however, that this subsection shall not apply to:

a. Unclaimed weapons which the Chief of Police of the City has determined to be serviceable, which shall be kept in reserve by the City Police Department for use in the event of civil disorder or disaster or which are deemed suitable for sale at public auction;

b. Unclaimed weapons which have been classified as "antique" or "collector's items" by a qualified expert in the firearms field and which shall be advertised as such and sold at public auction as provided herein. The Chief of Police shall determine and select a qualified expert in the firearms field to classify such weapons.

E. It shall be unlawful and a violation hereof for any person to cause to exist any of the conditions hereinabove declared to be a nuisance.

Section 5.03 <u>Disposition of Lost, Mislaid and Found Property</u>

All lost or mislaid personal property which is turned over to the Police Department shall be held for a period of sixty (60) days, during which time reasonable efforts to locate the owner shall be made. If such property remains unclaimed in the custody of the Police Department of the City for a period of sixty (60) days without being claimed by the owner thereof, the property may be returned to the finder in the case of lost property, or to the owner of the location where found in the case of mislaid property, upon payment of notice, impounding and storage fees. Where the finder is a City employee on duty, where the owner of the location where the property was found makes no claim, or where the property owner is identified, the property shall be held until claimed or required to be processed in accordance with V.T.C.A., Property Code, Sections 72.101-72.403. Provided that nothing herein shall require the release of property subject to forfeiture, prohibited weapons, as defined by the Prohibited Weapons Articles of the Weapons Chapter of the Texas Penal Code, property the possession of use, sale, manufacture, transportation, repair or delivery of which is prohibited by law, or motor vehicles.

Section 5.04 <u>Disposition of Property Seized</u>

All property (abandoned, lost, mislaid, stolen or recovered), contraband, dangerous drugs or controlled substances (the possession, use, sale, manufacture, transportation, repair or delivery of which is prohibited by law), and other property seized as evidence in connection with an offense under any ordinance of the City or the Texas Penal Code or being held as evidence in any pending case, shall be disposed of under the provisions of the Texas Code of Criminal Procedure, Articles 18.18, 18.19, 47.01-47.11, and 59.01-59.10; Chapters 481-485, Texas Health and Safety Code; and pursuant to procedures and policies of City, County, State or Federal law enforcement agencies. If said property is no longer held as evidence, it shall be disposed of under the provisions of Article 18.17, Texas Code of Criminal Procedure, and pursuant to procedures and policies of City, County, State or Federal law enforcement agencies.

Section 5.05 <u>Purchasing Agent of City to Administer Disposition of Property</u>

A. The Police Property Officer shall be the agent of the Purchasing Agent for the purposes of Article 18.17, Texas Code of Criminal Procedure, as they relate to storage and notices provided in Article 18.17(a), (b) and (c).

B. The Police Property Officer shall give to the Purchasing Agent of the City of Arlington a list of all property so impounded, and the Purchasing Agent shall administer the disposition of the property as herein provided.

Section 5.06 <u>Property Unclaimed to be Sold</u>

When any seized property is not claimed within thirty (30) days after being impounded, after compliance by the Police Property Officer with the provisions of Sections 5.04 and 5.05 hereof, the Purchasing Agent shall sell same at Public Auction in accordance with Article 18.17(d) and (e), or hold the property if required by Section 5.03, as appropriate. The law enforcement agency originally seizing the property may request and shall be given the property for agency use.

Section 5.07 <u>Redemption/Claim</u>

The owner or any person entitled to possession of such impounded personal property may:

A. Before sale. Redeem the property by paying to the Purchasing Agent the impounding fee and any other actual expenses incurred by the City in impounding, keeping and processing the impounded property, as determined by the Purchasing Agent.

B. After sale. Claim the proceeds within thirty (30) days from the sale of the property less the impounding fee and any other actual expenses incurred by the City in impounding, keeping and processing the impounded property, as determined by the Purchasing Agent. (Amend Ord 07-045, 6/19/07)

ARTICLE VI

JUNKED AND NUISANCE VEHICLES

Section 6.01 Purpose

The City of Arlington believes that junked, nuisance, abandoned, and/or legally unusable vehicles in public view are a detriment to the quality of life of Arlington residents and inhibit commerce. The presence of these vehicles erodes the integrity of the neighborhoods where they exist and undermines the safety, atmosphere and environment where family life and commerce takes place.

Section 6.02 Authority

This article is adopted pursuant to the authority provided by Municipal Home Rule and the Texas Transportation Code, Chapter 683, Subchapter E, and any successor statutes or other law, to establish procedures for the abatement and removal from private or public property or public right-of-way of a junked or nuisance vehicle or part of a junked or nuisance vehicle as a public nuisance.

Section 6.03 Junked Vehicles and Nuisance Vehicles Declared Public Nuisances

A. A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way is 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, and is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance.

B. A nuisance vehicle, including a part of a nuisance vehicle, that is visible at any time of the year from a public place, public right-of-way or private property, is 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, or is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance.

Section 6.04 <u>Offense</u>

A. A person commits an offense if the person maintains a public nuisance described by Section 6.03 of this Chapter.

B. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed Two Hundred and No/100 Dollars ($200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

C. The court shall order abatement and removal of the nuisance.

Section 6.05 <u>Exceptions</u>

The following vehicles or parts thereof are excepted from the provisions of this ordinance:

A. A vehicle or vehicle part which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

B. A vehicle or vehicle part which is 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 or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are:

1. maintained in an orderly manner,

2. do not constitute a health hazard, and

3. are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

C. An unlicensed, operable or inoperable antique or special interest vehicle or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Section 6.06 <u>Procedure for Disposition of Junked and Nuisance Vehicles</u>

The procedure for the abatement and removal of a junked or nuisance vehicle or part thereof, as a public nuisance, from private property, public property, or public right-of-way shall be as follows:

A. After a determination is made by the City Manager appointed Department Director or his designee that a particular vehicle is a junked or nuisance vehicle or after an order issued by the municipal court pursuant to Section 6.04(C), there shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered, delivered via the United States Postal Services with a signature confirmation, or sent by certified mail with a five (5) day return requested to:

1. the last known registered owner of the junked or nuisance vehicle;

2. all lien holders of record; and

3. the owner or occupant of:

a. the private premises whereupon such public nuisance exists; or

b. if the public nuisance vehicle is located on a public right-of-way, the property adjacent to the public right-of-way whereupon such public nuisance exists.

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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return. (Amend Ord 07-098, 12/18/07)

B. After a vehicle has been removed, it shall not be reconstructed or made operable.

C. There shall be a public hearing prior to the removal of the vehicle or part thereof as a public nuisance if such hearing is requested by the last known registered owner of the motor vehicle, or by any lien holder of record, or 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 said vehicle is located, or by the Police Department. The public hearing shall be held before the City Manager designated Department Director, or his or her designee, not earlier than the 11th day after the date of the service of notice to abate the nuisance. At the hearing, the vehicle which is the subject of the junked or nuisance vehicle hearing is presumed, unless demonstrated otherwise by the owner, to be inoperable. Any resolution or order requiring the removal of a junked or nuisance vehicle or part thereof must include the vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance. A Judge of the Municipal Court of the City of Arlington may issue necessary orders to enforce the procedures for the abatement and removal of a public nuisance under this Article.

D. The relocation of a junked or nuisance vehicle that is a public nuisance to another location within the City, after a proceeding for the abatement and removal of such junked vehicle has commenced, has no effect on the proceeding if the junked or nuisance vehicle constitutes a public nuisance at the new location.

E. Notice must be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal identifying the vehicle or part thereof. Said Department shall cancel the certificate of title issued for the vehicle immediately on receipt of such notice.

F. The administration of the procedures herein shall be by the Community Services Department and Police Department of the City of Arlington, Texas, and by such other regularly salaried, full-time City employees as may be from time-to-time granted authority by the City's governing body to enforce this ordinance, except that the removal of junked vehicles or parts thereof from property may be by any duly authorized person.

G. A citation may be issued and a complaint may be filed in the Municipal Court of the City of Arlington for the violation of maintaining a public nuisance, if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided in Subsections (A) and (B).

Section 6.07 <u>Disposal of Junked or Nuisance Vehicles</u>

A junked or nuisance vehicle or part thereof may be disposed of by removal to a scrapyard, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.

Section 6.08 <u>Authority to Enforce</u>

Any peace officer, Code Enforcement officer or other regularly salaried, full-time City employee authorized to enforce this ordinance, may enter the public areas of any building or premises, not a private residence or dwelling, structure or completely enclosed structure on private property, at all reasonable times whenever necessary in the performance of his duties to inspect and investigate for violations of any law, or to enforce any law. The authority to inspect shall include but not be limited to the authority to examine vehicles or parts thereof, obtain information as to identity of vehicles and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance. If such building or premises be occupied and involved in

conducting business, he shall first present proper credentials and demand entry, unless otherwise permitted by law. If such entry is refused, or, if no owner or other person having charge or control of the building or premises can be located, he shall have recourse to every remedy provided by law to secure entry.

Section 6.09 <u>Effect of Act on Other Laws</u>

Nothing in this Article shall affect laws that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or laws that establish procedures for taking possession of abandoned motor vehicles.

(Amend Ord 07-045, 6/19/07)

ARTICLE VII

PARKING OF VEHICLES

Section 7.01 Parking Vehicles

A. Except as otherwise provided in this Section, it shall be unlawful for any person to park or to cause, suffer, maintain or allow to be parked upon any property under his control any automobile, truck, bus, motorcycle, motorhome, camper, trailer, truck tractor, road tractor, semi-trailer, pole trailer, boat or mobile home, on any yard including driveways:

(1) in front of,
(2) on the side yard of, or
(3) on the rear yard of

any single family residence, duplex or townhouse, or upon any property zoned "R", "R-1", "T" or "D".

B. Exceptions: 7.01(A) shall not apply: to automobiles, trucks, and vans, which have a carrying capacity of four thousand (4,000) pounds or less; to motorhomes, campers, and trailers, which have a length of less than thirty (30) feet; and to motorcycles and boats:

(1) when parked upon an all-weather parking facility; or

(2) when parked on any side yard when such vehicle is screened from view from any public street by a screening fence; or

(3) when parked on any rear yard which is not adjacent to one or more street corners; or

(4) when parked on any rear yard when such vehicle is screened from view from any public street by a screening fence.

Section 7.02 Public Parking of Vehicle for Sale Prohibited

A. Vehicle for Sale Parked in Unauthorized Location Declared a Public Nuisance. A Vehicle for Sale, when parked in an unauthorized location where it is visible from a public place or public right-of-way:

1. is detrimental to the safety and welfare of the general public,

2. tends to attract attention of passers-by on roadways where slowing traffic presents a hazard to motorists and to pedestrians,

3. leads drivers to enter onto the premises where the Vehicle for Sale is parked even when no legitimate paved access exists,

4. invites customer inspection in unprotected settings where inspection may be unsafe near moving traffic lanes,

5. contributes to a proliferation of vehicles parked in areas not generally designed for parking, such as vacant lots and other unpaved areas,

6. entices further misuse of an unauthorized location, paved or unpaved, for vehicle sales by other persons with Vehicles for Sale,

7. produces deleterious effects on the exercise of lawful vehicle sales at legitimate, authorized locations,

8. produces urban blight which is adverse to the maintenance and continuing development of the City, and

such Vehicles for Sale are therefore declared to be a public nuisance.

B. <u>Offense</u>

1. A person commits an offense when the person maintains a public nuisance described in Section 7.02(A):

   a. by parking the Vehicle for Sale at the unauthorized location, or

   b. by having ownership, care, custody or control of the unauthorized location where the Vehicle for Sale is parked.

2. An offense under this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

3. The Court shall order abatement and removal of the nuisance on conviction.

4. In a prosecution under this section, it is presumed that the registered owner of the Vehicle for Sale is the person who parked the Vehicle for Sale at the time and place the offense occurred.

C. Exemptions. The provisions of this ordinance do not apply to a Vehicle for Sale parked in a lawful manner in the course of its normal use as a means of transportation:

1. upon the premises of or immediately adjacent to a single-family residence if the vehicle is registered to, owned or operated by the owner or legal occupant of the single-family residence; or

2. in a permitted parking space at a multi-family housing facility if the vehicle is registered to, owned by or operated by the owner or legal occupant of a unit in the multi-family housing facility; or

3. in the parking area of a commercial establishment or place of business when the driver is then and there employed and working or is then and there transacting business at the establishment or business.

(Amend Ord 07-045, 6/19/07)

ARTICLE VIII

GRAFFITI

Section 8.01 Legislative Findings

The City of Arlington recognizes that graffiti that is visible from a public place, public right-of-way, or the property of others is detrimental to the safety and welfare of the public, invites vandalism, additional graffiti, and other criminal activities, tends to reduce the value of private property, and produces property blight adverse to the maintenance and continuing development of the City of Arlington. The City of Arlington desires to prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The City Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the city.

The City Council intends, through the adoption of this Article, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Article to conflict with any existing anti-graffiti state laws.

Section 8.02 Graffiti Removal Requirement, Offense

A. It shall be the duty of the owner of any tangible property to remove or cause to be removed all graffiti from the property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists.

B. A property owner commits an offense by failing to remove or cause to be removed graffiti from the owner's property within fifteen (15) days after receipt of notice from the City to do so.

C. It is an exception from the requirement that an owner of property remove or cause to be removed graffiti from the property if the graffiti is located on

transportation infrastructure and the removal of the graffiti would create a hazard for the person performing the removal. (Amend Ord 09-064, 10/13/09)

Section 8.03 <u>Offer, Notice and Abatement</u>

A. <u>Offer</u>. Whenever graffiti is found to exist, the City may offer to remove the graffiti from the owner's property free of charge.

1. The City shall offer to remove the graffiti free of charge to the property owner by personal delivery of the written offer to the owner, by posting the offer on or near the front door on the property to which the offer relates, by posting the offer on a placard attached to a stake driven into the ground on the property to which the offer relates or by sending an offer letter by first class mail that is addressed to the owner at the owner's address as contained in the records of the appraisal district in which the property is located. If the City's offer cannot be made in such manner, the offer shall be made by publication at least once in a newspaper of general circulation in Tarrant County or the City. If the offer is made by personal delivery, the date of the offer is the date of delivery. If the offer is made by posting on or near the front door or by posting on a placard, the date of the offer is the date the offer was posted. If the offer is made by mail and the United States Postal Service returns the offer as "refused" or "unclaimed", the validity of the offer is not affected. If the offer is made by mail, the date of the offer is deemed to be three (3) days after the date mailed. If the offer is made by publication, the date of the offer is the date of publication.

2. The owner has three (3) days from the date of the offer to accept or refuse the City's offer. The owner may accept the City's offer by timely filing written acceptance with the Administrator on the form prescribed by the Administrator. Failure of the owner to timely file with the Administrator written acceptance of the City's offer shall constitute a refusal of the City's offer. If the owner accepts the City's offer, the City may enter upon the property as allowed by law and do or

cause to be done any work necessary to bring the property into compliance with this Article. If the owner refuses the City's offer by filing a written refusal or by failing to timely file with the Administrator written acceptance of the City's offer, the owner shall be given notice to comply with Section 8.02.

B. Notice. After offer by the City to remove the graffiti for free and refusal by the property owner of the City's offer, the owner shall be given notice to comply with Section 8.02 and to remove or cause to be removed the graffiti within fifteen (15) days from receipt of the notice. The notice shall contain a statement explaining the owner's right to request a hearing for the purpose of determining whether the conditions constitute a public nuisance under this Article. The notice shall be given personally to the owner in writing or by letter sent by certified mail, return receipt requested, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located. If notice cannot be given in such manner, the notice shall be given by publication at least once in a newspaper of general circulation in Tarrant County or the City, by posting the notice on or near the front door of each building on the property to which the notice relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates. For notice given by personal delivery, the notice is deemed received on the date of delivery. For notice given by posting on or near the front door or by posting on a placard, the notice is deemed received the date the notice was posted. If notice is given by mail and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected. If the notice is given by mail, the notice is deemed received three (3) days after the date mailed. If the notice is made by publication, the notice is deemed received on the date of publication.

C. Abatement. After the expiration of fifteen (15) days from the date the owner received the notice and where the Administrator has not received a timely request for a hearing, the City of Arlington may enter upon the property as allowed by law and do or cause to be done any work necessary to bring such premises into compliance with this Article.

D. Hearing.

1. If, within fifteen (15) days after the date the owner received the notice, the owner files with the Administrator a written request for a hearing, the Administrator will schedule a hearing within five (5) days after the date the request is filed unless the parties agree to a certain date beyond the five (5) days. The owner's request for hearing must contain an address and a phone number where notice of hearing can be given. At the hearing, the owner and the City may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the Administrator and subject to approval by the City Attorney.

2. The determination of the Hearing Officer after the hearing shall be final and not appealable. If, after the hearing, the Hearing Officer finds that conditions constituting a nuisance hereunder exist, the Hearing Officer shall give written notice in an abatement order that, unless the graffiti is removed within fifteen (15) days from the date the owner receives the notice given pursuant to Section 8.03(B) or within two (2) days from the date of the abatement order, whichever is later, the City may enter upon the property and do or cause to be done any work necessary to bring such premises into compliance with this Article. (Amend Ord 09-064, 10/13/09)

Section 8.04 Assessment of Expenses

The expense incurred in correcting the condition of such property, including the cost of delivering, posting notice, publishing notice in the newspaper, and the City's administrative expenses, shall be initially paid by the City of Arlington and charged to the owner of such property as fees in an amount established by City Council Resolution, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. To obtain a lien against the property for expenses incurred in correcting the condition of graffiti on the property, the Administrator shall file a statement of expenses with the County Clerk of Tarrant County. The statement of expenses shall contain the name of

the property owner, if known, the legal description of the property, and the amount of expenses incurred in correcting the condition on the property. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, subordinate only to any previously recorded lien, and the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed. Such amount shall bear interest at the rate of ten percent (10%) or such rate allowed by law from the date the City of Arlington incurs the expenses. The statement of expenses filed with the Tarrant County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter. (Amend Ord 09-064, 10/13/09)

Section 8.05 <u>Responsibility of Parent or Guardian for Graffiti Created By Minor</u>

A parent or guardian of a minor commits an offense if he or she intentionally, knowingly, recklessly or with criminal negligence permits the minor to create graffiti on tangible property in the City without the property owner's consent.

Section 8.06 <u>Possession of Aerosol Paint by Minor</u>

A. <u>Possessing Aerosol Paint</u>. It shall be unlawful for a minor to possess aerosol paint of any sort or character.

B. <u>Affirmative Defense</u>. It shall be an affirmative defense to a violation of Section 8.06(A) that, at the time of possession, the minor was accompanied or supervised by a parent or guardian, a teacher in connection with a bona fide school project, a supervisor during the minor's regular employment, or that the minor possessed the aerosol paint on the property on which he or she lives or that the possession occurred as part of an organized event sponsored or supervised by the City, a school, a church or some other officially recognized entity.

Section 8.07 Enforcement

A. Enforcement. It shall be the duty of the Director of Community Services, the Chief of Police, the Fire Chief, the Director of Public Works and Transportation, the Director of Community Development and Planning, and their designees, to enforce this ordinance. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed Five Hundred and No/100 Dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

B. Affirmative Defenses. It is an affirmative defense to prosecution under this Article that notice was not given to the property owner in compliance with this Article. (Amend Ord 09-064, 10/13/09)

ORDINANCE NO. 99-41

AN ORDINANCE AMENDING THE **"NUISANCE"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE VI**, ENTITLED JUNKED VEHICLES, RELATIVE TO UPDATING SAID ORDINANCE TO FULLY CONFORM TO AMENDMENTS TO THE PROVISIONS OF CONTROLLING STATE LAW; PROVIDING FOR A FINE OF UP TO **$200**; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article VI, Junked Vehicles, so that hereafter said Article shall be and read as follows:

ARTICLE VI

JUNKED (INOPERABLE) VEHICLES

Section 6.01 Authority

This article is adopted pursuant to the authority provided by the Texas Transportation Code, Chapter 683, Subchapter E, and any successor statutes, to establish procedures for the abatement and removal from private or public property or public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

Section 6.02 Definitions

"**Antique Vehicle**" shall mean a passenger car or truck that is at least 35 years old.

"**Junked Vehicle**" shall mean a vehicle that is self-propelled and inoperable and

(1) that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle inspection certificate, or

(2) is wrecked, dismantled, partially dismantled, or discarded, or

(3) has remained inoperable for more than forty-five (45) consecutive days.

"**Motor Vehicle**" shall mean any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

"Motor Vehicle Collector" shall mean a person who owns one or more antique or special interest vehicles and who collects, purchases, 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 for historic interest.

"Motor Vehicle Demolisher" shall mean any person in the business of converting motor vehicles into processed scrap or scrap metal, or to otherwise wreck or dismantle motor vehicles.

"Special Interest Vehicle" shall mean a motor vehicle of any age which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

"**Storage Facility**" shall mean a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Section 6.03 **<u>Junked (Inoperable) Vehicles Declared a Public Nuisance</u>**

A junked vehicle which is located in any place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the City, by producing urban blight which is adverse to the

maintenance and continuing development of the City, and such vehicles are therefore, declared to be a public nuisance.

Section 6.04 <u>Offense</u>

A. A person commits an offense if the person maintains a public nuisance described by Section 6.03 of this Chapter.

B. An offense under this section is a misdemeanor punishable by a fine not to exceed Two Hundred and No/100 Dollars ($200).

C. The court shall order abatement and removal of the nuisance on conviction.

Section 6.05 <u>Exceptions</u>

The following vehicles or parts thereof are excepted from the provisions of this ordinance:

A. A vehicle or vehicle part which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

B. A vehicle or vehicle part which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard.

C. An unlicensed, operable or inoperable antique or special interest vehicle or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Section 6.06 <u>Procedure for Disposition of Junked Vehicles</u>

The procedure for the abatement and removal of a junked vehicle or part thereof, as a public nuisance, from private property, public property, or public right-of-way shall be as follows:

A. There shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was mailed and further that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be mailed, by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and to the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

B. There shall be furnished not less than ten (10) days' notice, stating the nature of the public nuisance on public property or on public right-of-way and that it must be removed and abated not later than the 10th day after the date on which the notice was mailed and further that a request for hearing must be made before expiration of said ten (10) day period, such notice to be mailed by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and, if on public right-of-way, to the owner or occupant of the property adjacent to the public right-of-way whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

C. After a vehicle has been removed, it shall not be reconstructed or made operable.

D. There shall be a public hearing prior to the removal of the vehicle or part thereof as a public nuisance if such hearing is requested by the last known registered owner of the motor vehicle, or by any lien holder of record, or 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 said vehicle is located, or by the Police Department. The public hearing shall be held before the Director of Community Development of the City of Arlington, or his designee, not earlier than the 11th day after the date of the service of notice to abate the nuisance. At the

hearing, the vehicle which is the subject of the junked vehicle hearing is presumed, unless demonstrated otherwise by the owner, to be inoperable. Any resolution or order requiring the removal of a junked vehicle or part thereof must include the vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance. A Judge of the Municipal Court of the City of Arlington may issue necessary orders to enforce the procedures for the abatement and removal of a public nuisance under this Article.

E. Notice must be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal identifying the vehicle or part thereof. Said Department shall cancel the certificate of title issued for the vehicle immediately on receipt of such notice.

F. The administration of the procedures herein shall be by the Code Enforcement Department and Police Department of the City of Arlington, Texas, and by such other regularly salaried, full-time City employees as may be from time-to-time granted authority by the City's governing body to enforce this ordinance, except that the removal of junked vehicles or parts thereof from property may be by any duly authorized person.

G. A citation may be issued and a complaint may be filed in the Municipal Court of the City of Arlington for the violation of maintaining a public nuisance, if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided in Subsections (A) and (B).

Section 6.07 <u>Disposal of Junked (Inoperable) Vehicles</u>

A junked vehicle or part thereof may be disposed of by removal to a scrapyard, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.

Section 6.08 **Authority to Enforce**

Any peace officer, Code Enforcement officer or other regularly salaried, full-time City employee authorized to enforce this ordinance, may enter the public areas of any building or premises, not a private residence or dwelling, structure or completely enclosed structure on private property, at all reasonable times whenever necessary in the performance of his duties to inspect and investigate for violations of any law, or to enforce any law. The authority to inspect shall include but not be limited to the authority to examine vehicles or parts thereof, obtain information as to identity of vehicles and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance. If such building or premises be occupied and involved in conducting business, he shall first present proper credentials and demand entry, unless otherwise permitted by law. If such entry is refused, or, if no owner or other person having charge or control of the building or premises can be located, he shall have recourse to every remedy provided by law to secure entry.

Section 6.09 **Effect of Act on Other Laws**

Nothing in this Article shall affect laws that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or laws that establish procedures for taking possession of abandoned motor vehicles.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Hundred and No/100 Dollars ($200)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting

provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 16th day of March, **1999**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 23rd day of March, **1999**, by a vote of 9 ayes

and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 99-133

AN ORDINANCE AMENDING THE **"NUISANCE"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE VI**, ENTITLED JUNKED (INOPERABLE) VEHICLES, BY THE AMENDMENT OF THE TITLE OF THE ARTICLE; BY THE ADDITION OF A PREAMBLE; BY THE AMENDMENT OF **SECTION 6.02**, DEFINITIONS, BY THE AMENDMENT OF THE DEFINITION OF "JUNKED VEHICLE"; BY THE AMENDMENT OF **SECTION 6.06**, PROCEDURE FOR DISPOSITION OF JUNKED VEHICLES, BY THE ADDITION OF A NEW SUBSECTION (E) AND THE RELETTERING OF THE REMAINING SUBSECTIONS, RELATIVE TO UPDATING THE ORDINANCE TO CONFORM TO RECENT CHANGES IN STATE LAW; PROVIDING FOR A FINE OF UP TO **$200**; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of the title of Article VI, Junked (Inoperable) Vehicles, so that the **title** shall be Junked Vehicles.

Further, Article VI is hereby amended by the addition of a preamble at the beginning of the Article so that hereafter the preamble shall be and read as follows:

Preamble - The City of Arlington believes that junked, abandoned, and/or legally unusable vehicles in public view are a detriment to the quality of life of Arlington residents and inhibit commerce. The presence of these vehicles erodes the integrity of the neighborhoods where they exist and undermines the safety, atmosphere and environment where family life and commerce takes place.

Further, Article VI is hereby amended by the amendment of **Section 6.02**, Definitions, so that hereafter the definition of "Junked Vehicle" shall be and read as follows:

"Junked Vehicle" shall mean a vehicle that is self-propelled and

(1) does not have lawfully attached to it: (a) an unexpired license plate; or (b) a valid motor vehicle inspection certificate; or

(2) is wrecked, dismantled or partially dismantled, or discarded; or

(3) is inoperable and has remained inoperable for more than: (a) seventy-two (72) consecutive hours, if the vehicle is on public property; or (b) thirty (30) consecutive days if the vehicle is on private property.

Further, Article VI is hereby amended by the amendment of **Section 6.06**, Procedure for Disposition of Junked Vehicles, by the addition of a new Subsection (E) and the relettering of the remaining subsections, so that hereafter said Subsection (E) shall be and read as follows:

E. The relocation of a junked vehicle that is a public nuisance to another location within the City, after a proceeding for the abatement and removal of such junked vehicle has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Hundred and No/100 Dollars ($200)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting

provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 19th day of October, **1999**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 26th day of October, **1999**, by a

vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 99-153

AN ORDINANCE AMENDING THE "**NUISANCE**" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE IV**, ENTITLED ABATEMENT, BY THE ADDITION OF A PREAMBLE; BY THE AMENDMENT OF **SECTION 4.03**, ABATEMENT PROCEDURE, RELATIVE TO UPDATING THE ORDINANCE TO CONFORM TO RECENT CHANGES IN STATE LAW; BY THE AMENDMENT OF **SECTION 4.04**, AUTHORITY TO ENFORCE CHAPTER, RELATIVE TO THE CORRECTION OF THE NAME OF THE CAPITAL IMPROVEMENTS DEPARTMENT; PROVIDING FOR A FINE OF UP TO **$2000;** PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the "**Nuisance**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article IV, Abatement, by the addition of a preamble at the beginning of the Article so that hereafter the preamble shall be and read as follows:

Preamble – The City of Arlington desires that property be maintained in an attractive and pleasant manner free of all nuisances. Premises that become unattractive because of high vegetation or other nuisance invite deterioration, vandalism and infestation and undermine the integrity of the neighborhoods and commercial areas where they exist.

Further, Article IV is hereby amended through the amendment of **Section 4.03**, Abatement Procedure, so that hereafter said section shall be and read as follows:

Section 4.03 <u>Abatement Procedure</u>

A. If any owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, shall fail to comply with the provisions of Section 4.01 above, said person may, in addition to being charged with a violation of this Chapter, be given notice to comply with the provisions of Section 4.01 above. Said notice shall be given by letter addressed and delivered to such person either by mailing it to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located or by personal delivery. If notice cannot be made in such manner, said notice shall be given by publication at least once, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings. If the notice is mailed to the property owner in accordance with this section and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date mailed. If notice is made by publication, the publication shall be in a newspaper of general circulation in the community.

B. After the expiration of seven (7) days from the date the notice required in Subsection (A) above has been mailed and delivered or personally delivered, or published or posted, the City of Arlington may enter the premises containing the nuisance condition in accordance with this section and do or cause to be done any work necessary to bring such premises into compliance with this Chapter.

C. In a notice provided under this section, the City may also include terms of an annual notice which conforms to this subsection. The annual notice terms shall inform the owner by regular mail and a posting on the property that, if the owner commits another violation of the same kind or nature that poses a danger to the

public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by the terms of the annual notice occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without further notice may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property as provided in this section.

D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper, shall be initially paid by said City and charged to the owner of such property, and said City may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, said City shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Director of Community Development or his designee, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by said City. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

E. Any police officer of the City of Arlington or any other peace officer is empowered to stop the transportation of and detain any nuisance found being transported illegally until the appropriate officials which are hereinafter designated can be notified in

order that the said nuisance may be seized and destroyed in accordance with the terms of this section.

F. Notwithstanding any penal, lien or notice provisions of this ordinance, the City Attorney of the City of Arlington is authorized to file suit on behalf of said City for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of a nuisance and to aid the hereinafter designated officials in the discharge of their duties and to particularly prevent any person from interfering or attempting to interfere with the seizure and destruction of such nuisance.

G. The hereinafter designated officials are hereby authorized to enter the public areas of any building or premises, not a private residence or dwelling, at all reasonable times where the unlawful presence of a nuisance is suspected, in order to inspect the same for the presence of such nuisance or to abate or destroy the nuisance, if such building or premises are occupied and conducting business. Such official shall first present proper credentials and demand entry, unless otherwise permitted by law. If such building or premises are unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if no owner or other person having charge or control of the building or premises can be located, or the area to be inspected is not a public area, the hereinafter designated officials shall have recourse to every remedy provided by law to secure entry.

Further, Article IV is hereby amended through the amendment of **Section 4.04,** Authority to Enforce Chapter, so that hereafter said section shall be and read as follows:

Section 4.04 Authority to Enforce Chapter

The Director of Engineering Services, Director of Community Development and Director of Transportation, or their designees, shall enforce the terms and conditions of this Chapter when violations occur; however, when a fire hazard exists, the provisions of this Chapter shall also be enforced by the Fire Marshal. Any police officer of the

City shall also enforce the terms and conditions of this Chapter when a violation occurs.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Thousand and No/100 Dollars ($2000)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in

addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 30th day of November, **1999**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 7th day of December, **1999**, by a vote of 6 ayes and 2 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 99-154

AN ORDINANCE AMENDING THE **"NUISANCE"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE VII**, ENTITLED PARKING OF VEHICLES, BY THE ADDITION OF **SECTION 7.03**, PUBLIC PARKING OF VEHICLE FOR SALE PROHIBITED; PROVIDING FOR A FINE OF UP TO **$500**; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article VII, Parking of Vehicles, by the addition of **Section 7.03**, Public Parking of Vehicle for Sale Prohibited, so that hereafter Section 7.03 shall be and read as follows:

Section 7.03 Public Parking of Vehicle for Sale Prohibited

A. Definitions

"Vehicle for Sale" means any motor vehicle, boat, trailer, jet ski, recreational vehicle, camper or other vehicle (collectively called "vehicle" or "vehicles") having displayed thereon any writing or signage indicating such vehicle is for sale.

"Unauthorized location" means any area where a Vehicle for Sale is parked when that area does not have both a certificate of occupancy issued by the City of Arlington for the sale of vehicles and a license from the Texas Department of Transportation for the sale of vehicles at that location.

B. Vehicle for Sale Parked in Unauthorized Location Declared a Public Nuisance

A Vehicle for Sale, when parked in an unauthorized location where it is visible from a public place or public right-of-way:

1. is detrimental to the safety and welfare of the general public,
2. tends to attract attention of passers-by on roadways where slowing traffic presents a hazard to motorists and to pedestrians,
3. leads drivers to enter onto the premises where the Vehicle for Sale is parked even when no legitimate paved access exists,
4. invites customer inspection in unprotected settings where inspection may be unsafe near moving traffic lanes,
5. contributes to a proliferation of vehicles parked in areas not generally designed for parking, such as vacant lots and other unpaved areas,
6. entices further misuse of an unauthorized location, paved or unpaved, for vehicle sales by other persons with Vehicles for Sale,
7. produces deleterious effects on the exercise of lawful vehicle sales at legitimate, authorized locations,
8. produces urban blight which is adverse to the maintenance and continuing development of the City, and

such Vehicles for Sale are therefore declared to be a public nuisance.

C. <u>Offense</u>

1. A person commits an offense when the person maintains a public nuisance described in Section 7.03(B):

   a. by parking the Vehicle for Sale at the unauthorized location, or
   b. by having ownership, care, custody or control of the unauthorized location where the Vehicle for Sale is parked.

2. An offense under this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

3. The Court shall order abatement and removal of the nuisance on conviction.

4. In a prosecution under this section, it is presumed that the registered owner of the Vehicle for Sale is the person who parked the Vehicle for Sale at the time and place the offense occurred.

D. <u>Exemptions</u>

The provisions of this ordinance do not apply to a Vehicle for Sale parked in a lawful manner in the course of its normal use as a means of transportation:

1. upon the premises of or immediately adjacent to a single-family residence if the vehicle is registered to, owned or operated by the owner or legal occupant of the single-family residence; or

2. in a permitted parking space at a multi-family housing facility if the vehicle is registered to, owned by or operated by the owner or legal occupant of a unit in the multi-family housing facility ; or

3. in the parking area of a commercial establishment or place of business when the driver is then and there employed and working or is then and there transacting business at the establishment or business.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Five Hundred and No/100 Dollars ($500)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 30th day of November, **1999**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 14th day of December, **1999**, by a vote of 6 ayes and 3 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 02-087

AN ORDINANCE AMENDING THE "**NUISANCE**" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I**, ENTITLED DEFINITIONS AND PROHIBITIONS, BY THE AMENDMENT OF **SECTION 1.02**, POWER TO DEFINE AND PROHIBIT, SUBSECTION (D), RELATIVE TO UPDATING THE LEGAL REFERENCE; THROUGH THE AMENDMENT OF **ARTICLE II**, ENTITLED NUISANCES ENUMERATED, BY THE AMENDMENT OF **SECTION 2.17**, SUBSTANDARD STRUCTURE, RELATIVE TO UPDATING THE LEGAL REFERENCE; BY THE AMENDMENT OF **SECTION 2.20**, MISCELLANEOUS CONDITIONS, RELATIVE TO UPDATING THE LEGAL REFERENCE; THROUGH THE AMENDMENT OF **ARTICLE IV**, ENTITLED ABATEMENT, BY THE AMENDMENT OF **SECTION 4.03**, ABATEMENT PROCEDURE, SUBSECTION (D), RELATIVE TO UPDATING THE REFERENCE TO THE DIRECTOR OF NEIGHBORHOOD SERVICES; BY THE AMENDMENT OF **SECTION 4.04**, AUTHORITY TO ENFORCE CHAPTER, RELATIVE TO UPDATING THE REFERENCE TO THE DIRECTOR OF NEIGHBORHOOD SERVICES; THROUGH THE AMENDMENT OF **ARTICLE VI**, ENTITLED JUNKED VEHICLES, BY THE AMENDMENT OF **SECTION 6.02**, DEFINITIONS, RELATIVE TO THE AMENDMENT OF THE DEFINITIONS FOR "ANTIQUE VEHICLE" AND "JUNKED VEHICLE"; BY THE AMENDMENT OF **SECTION 6.06**, PROCEDURE FOR DISPOSITION OF JUNKED VEHICLES, SUBSECTION (A), RELATIVE TO ADDITIONAL METHODS OF GIVING NOTICE TO ABATE; BY THE AMENDMENT OF **SECTION 6.06**, SUBSECTION (B), RELATIVE TO ADDITIONAL METHODS OF GIVING NOTICE TO ABATE; BY THE AMENDMENT OF **SECTION 6.06**, SUBSECTION (D), RELATIVE TO UPDATING THE REFERENCE TO THE DIRECTOR OF NEIGHBORHOOD SERVICES; BY THE AMENDMENT OF **SECTION 6.06**, SUBSECTION (G), RELATIVE TO UPDATING THE REFERENCE TO THE NEIGHBORHOOD SERVICES DEPARTMENT; PROVIDING FOR A FINE OF UP TO $200 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION

AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions and Prohibitions, by the amendment of **Section 1.02**, Power to Define and Prohibit, Subsection (D), so that hereafter said subsection shall be and read as follows:

D. Inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the City, from which meat or milk is furnished to the inhabitants of the City, as provided in Texas Local Government Code, Sections 51.071–51.079, which grants such powers and authorizes such acts. All powers granted under such article of the Revised Civil Statutes are specifically adopted and made a part hereof.

Further, Article II, Nuisances Enumerated, is hereby amended by the amendment of **Section 2.17**, Substandard Structure, so that hereafter said section shall be and read as follows:

Section 2.17 Substandard Structure

Any structure which is in violation of Section 202 of the City of Arlington Uniform Housing Code, as amended, or any structure in violation of Section 16.03 of the Construction Chapter, as amended.

Further, Article II is hereby amended by the amendment of **Section 2.20**, Miscellaneous Conditions, so that hereafter said section shall be and read as follows:

Section 2.20 Miscellaneous Conditions

Any condition prohibited by Chapter 341 of the Texas Health and Safety Code, as amended, entitled Minimum Standards of Sanitation and Health Protection Measures.

Further, Article IV, Abatement, is hereby amended by the amendment of **Section 4.03**, Abatement Procedure, Subsection (D), so that hereafter said section shall be and read as follows:

D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in

correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Director of Neighborhood Services or his designee, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

Further, Article IV is hereby amended by the amendment of **Section 4.04**, Authority to Enforce Chapter, so that hereafter said section shall be and read as follows:

Section 4.04 Authority to Enforce Chapter

The Director of Engineering Services, Director of Neighborhood Services and Director of Transportation, or their designees, shall enforce the terms and conditions of this Chapter when violations occur; however, when a fire hazard exists, the provisions of this Chapter shall also be enforced by the Fire Marshal. Any police officer of the City shall also enforce the terms and conditions of this Chapter when a violation occurs.

Further, Article VI, Junked Vehicles, is hereby amended by the amendment of **Section 6.02**, Definitions, to amend the definitions of "Antique Vehicle" and "Junked Vehicle", so that hereafter said definitions shall be and read as follows:

"**Antique Vehicle**" shall mean a passenger car or truck that is at least 25 years old.

"Junked Vehicle" shall mean a vehicle that is self-propelled and

(1) does not have lawfully attached to it:

(a) an unexpired license plate; or

(b) a valid motor vehicle inspection certificate; and

(2) is:

(a) wrecked, dismantled or partially dismantled, or discarded; or

(b) inoperable and has remained inoperable for more than:

(i) seventy-two (72) consecutive hours, if the vehicle is on public property; or

(ii) thirty (30) consecutive days if the vehicle is on private property.

Further, Article VI is hereby amended by the amendment of **Section 6.06**, Procedure for Disposition of Junked Vehicles, Subsection (A), so that hereafter said subsection shall be and read as follows:

A. There shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered or sent by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and to the owner or the occupant of the private premises whereupon such public nuisance exists. 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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

Further, Article VI is hereby amended by the amendment of **Section 6.06**, Subsection (B), so that hereafter said subsection shall be and read as follows:

B. There shall be furnished not less than ten (10) days' notice, stating the nature of the public nuisance on public property or on public right-of-way and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered or mailed by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and, if on public right-of-way, to the owner or occupant of the property adjacent to the public right-of-way whereupon such public nuisance exists. 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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

Further, Article VI is hereby amended by the amendment of **Section 6.06**, Subsection (D), so that hereafter said subsection shall be and read as follows:

D. There shall be a public hearing prior to the removal of the vehicle or part thereof as a public nuisance if such hearing is requested by the last known registered owner of the motor vehicle, or by any lien holder of record, or 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 said vehicle is located, or by the Police Department. The public hearing shall be held before the Director of Neighborhood Services of the City of Arlington, or his designee, not earlier than the 11th day after the date of the service of notice to abate the nuisance. At the hearing, the vehicle which is the subject of the junked vehicle hearing is presumed, unless demonstrated otherwise by the owner, to be inoperable. Any resolution or order requiring the removal of a junked vehicle or part thereof must

include the vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance. A Judge of the Municipal Court of the City of Arlington may issue necessary orders to enforce the procedures for the abatement and removal of a public nuisance under this Article.

Further, Article VI is hereby amended by the amendment of **Section 6.06**, Subsection (G), so that hereafter said subsection shall be and read as follows:

G. The administration of the procedures herein shall be by the Neighborhood Services Department and Police Department of the City of Arlington, Texas, and by such other regularly salaried, full-time City employees as may be from time-to-time granted authority by the City's governing body to enforce this ordinance, except that the removal of junked vehicles or parts thereof from property may be by any duly authorized person.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Hundred ($200) Dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **30th** day of **July**, **2002**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **6th** day of **August**, **2002**, by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 04-114

AN ORDINANCE AMENDING THE **"NUISANCE"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE VI**, ENTITLED JUNKED VEHICLES, BY THE AMENDMENT OF **SECTION 6.02**, DEFINITIONS, RELATIVE TO THE DEFINITION OF "JUNKED VEHICLE"; BY THE AMENDMENT OF **SECTION 6.03**, JUNKED (INOPERABLE) VEHICLES DECLARED A PUBLIC NUISANCE; BY THE AMENDMENT OF **SECTION 6.05**, EXCEPTIONS, SUBSECTION (B); AND BY THE AMENDMENT OF **SECTION 6.06**, PROCEDURE FOR DISPOSITION OF JUNKED VEHICLES; PROVIDING FOR A FINE OF UP TO $200 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article VI**, entitled Junked Vehicles, by the amendment of **Section 6.02,** entitled Definitions, so that hereafter the definition of "Junked Vehicle" shall be and read as follows:

Section 6.02 Definitions

"Junked Vehicle" shall mean a vehicle that:

(1) is self-propelled and

a. does not have lawfully attached to it an unexpired license plate, or

b. does have lawfully attached to it an unexpired license plate but does not have lawfully attached to it a valid motor vehicle inspection certificate; and

(2) is:

a. wrecked, dismantled or partially dismantled, or discarded, or

b. substantially disfigured, damaged, or disintegrated, or

c. ruined, destroyed or demolished; or

d. inoperable and has remained inoperable for more than:

(i) seventy-two (72) consecutive hours, if the vehicle is on public property;

(ii) thirty (30) consecutive days if the vehicle is on private property.

Further, **Article VI**, **Section 6.03**, Junked (Inoperable) Vehicles Declared a Public Nuisance, is amended so that hereafter said section shall be and read as follows:

Section 6.03 Junked Vehicles Declared a Public Nuisance

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way is 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, and is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance.

Further, **Article VI**, **Section 6.05**, Exceptions, Subsection (B), is amended so that hereafter said subsection shall be and read as follows:

B. A vehicle or vehicle part which is 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 or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are:

1. maintained in an orderly manner,

2. do not constitute a health hazard, and

3. are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Further, **Article VI**, **Section 6.06**, Procedure for Disposition of Junked Vehicles, Subsection (A), is amended so that hereafter said section shall be and read as follows:

A. After a determination is made by the Director of Neighborhood Services or his designee that a particular vehicle is a junked vehicle or after an order issued by the municipal court pursuant to Section 6.04(C), there shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered or sent by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and to the owner or the occupant of the private premises whereupon such public nuisance exists. 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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Hundred and No/100 Dollars ($200) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in

addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective upon second publication as described above.

PRESENTED AND GIVEN FIRST READING on the **14th** day of **December**, **2004**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **20th** day of **December**, **2004,** by a vote of **8** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

Published ST 8-30-06 & 9-4-06

Ordinance No. 06-088

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, relative to the public nuisance of graffiti, failure to remove graffiti and City abatement of graffiti, updating the chapter and organizing various sections; providing for a fine of up to $2000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended to read as follows:

ARTICLE I

DEFINITIONS AND PROHIBITIONS

Section 1.01 Purpose

The purpose of this Chapter is to promote the public health, safety and welfare by requiring a minimum level of maintenance of private property to protect the livability, appearance, and social and economic stability of the City, to protect the public from the health and safety hazards and the impairment of property values that result from the neglect and deterioration of property, to prevent the spread of disease, and to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

Section 1.02 Definitions

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Administrator - the Director of Community Services or his designee.

Aerosol Paint - an aerosolized paint product, including a clear or pigmented lacquer or finish.

Aircraft - Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

All-Weather Parking Facility - asphalt or concrete paving suitable for vehicle parking.

Antique Vehicle - a passenger car or truck that is at least 25 years old.

Fireworks - Any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

Garbage - All decayable wastes, including vegetable, animal and fish offal and carcasses of such animals and fish, and shall include all such substances from all public and private establishments and from all residences.

Graffiti - Any unauthorized inscription, word, signature, symbol or other marking of any sort which is etched, written, painted, drawn or applied in any other way to any structure, building or property of any sort or to any portion or element thereof, whether the property is public or private.

Guardian - a person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

Handbill - any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

Hearing Officer - the Administrator.

Junk - all worn-out, worthless, and discarded material, in general, including but not limited to old iron or other metal, glass, paper, cordage or other waste or discarded materials.

Junked Vehicle - a vehicle that:

(1) is self-propelled and

(a) does not have lawfully attached to it an unexpired license plate, or

(b) does have lawfully attached to it an unexpired license plate but does not have lawfully attached to it a valid motor vehicle inspection certificate; and

(2) is:

(a) wrecked, dismantled or partially dismantled, or discarded, or

(b) substantially disfigured, damaged, or disintegrated, or

(c) ruined, destroyed or demolished; or

(d) inoperable and has remained inoperable for more than:

(i) seventy-two (72) consecutive hours, if the vehicle is on public property;

(ii) thirty (30) consecutive days if the vehicle is on private property.

Litter - all garbage, refuse and rubbish, as defined herein, and all other material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

Littering - the discarding of garbage, paper, and other forms of refuse in any place other than officially designated refuse containers or disposal units.

Minor - any person under seventeen (17) years of age.

Motor Vehicle - any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

Motor Vehicle Collector - a person who owns one or more antique or special interest vehicles and who collects, purchases, 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 for historic interest.

Motor Vehicle Demolisher - any person in the business of converting motor vehicles into processed scrap or scrap metal, or to otherwise wreck or dismantle motor vehicles.

Owner - any person with the legal right of possession to tangible property which includes, but is not limited to the actual owner or lessee.

Parent - a person who is a natural parent, adoptive parent or stepparent of another person.

Person - any natural person, association of persons, partnership, corporation, agent or officer, and shall also include all warehousemen, common and private carriers,

bailees, trustees, receivers, executors, administrators, parents, and guardians.

Public Highway - the entire width between property lines including the non-paved area of a street right-of-way, of any road, street, way, thoroughfare, bridge, public beach, or park in this City not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic or which is used as a public recreational area and/or over which the City has legislative jurisdiction under its police power.

Rear Yard - that area of a lot circumscribed by the back lot line, the side lot lines extending to imaginary lines perpendicular from the back corners of the residential structure, and the back side of the residential structure.

Refuse - all garbage, rubbish, and all other decayable and non-decayable waste, including vegetable, animal and fish carcasses, except sewage from all public and private establishments and residences.

Rubbish - all non-decayable wastes, from all public and private establishments and from all residences.

Screening Fence - a barrier at least six feet (6') in height of stone, brick, pierced brick or block, uniformly colored wood or other permanent material which forms a visual barrier of equal character, density and design; provided, however, any such structure in excess of eight feet (8') in height shall be deemed a wall subject to the provisions of the Building Code of the City of Arlington. For the purposes of this Chapter, a vehicle shall be deemed to be screened from view when it is behind a screening fence.

Side Yard - the area behind an imaginary line extending perpendicularly from the front corner of the residential structure to the side lot line, extending to an imaginary line perpendicular to the side lot line which touches the back corner of the residential structure closest to the side lot line at which point the "rear yard" begins.

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

Storage Facility - a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Unauthorized - without the permission of the owner or person in control of property, whether public or private.

Unauthorized Location for Vehicle for Sale - any area where a Vehicle for Sale is parked when that area does not have both a certificate of occupancy issued by the City of Arlington for the sale of vehicles and a license from the Texas Department of Transportation for the sale of vehicles at that location.

Vehicle for Sale - any motor vehicle, boat, trailer, jet ski, recreational vehicle, camper or other vehicle (collectively called "vehicle" or "vehicles") having displayed thereon any writing or signage indicating such vehicle is for sale.

Section 1.03 Power to Define and Prohibit

The City of Arlington, acting by and through its duly authorized officers, agents and representatives, as designated herein, shall have the power to:

A. Define all nuisances and prohibit the same within the City and outside the City limits for a distance of five thousand (5,000) feet (provided that this ordinance shall not apply within any portion of such five thousand foot area which is contained within the territory of any other municipal corporation);

B. Police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said City and lying outside of said City;

C. Prohibit the pollution of any stream, drain or tributaries thereof which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any watersheds and the policing of same;

D. Inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the City, from which meat or milk is furnished to the inhabitants of the City, as provided in Texas Local Government Code, Sections 51.071-51.079, which grants such powers and authorizes such acts. All powers granted under such article of the Revised Civil Statutes are specifically adopted and made a part hereof.

Section 1.04 Authority to Enforce Chapter

The Director of Public Works and Transportation, Director of Community Services, Director of Community Development and Planning, Fire Chief, and Police Chief, or their designees, shall enforce the terms and conditions of this Chapter when violations occur; however, when a fire hazard exists, the provisions of this Chapter shall also be enforced by the Fire Marshal.

ARTICLE II

NUISANCES ENUMERATED

Section 2.01 Property Blight Declared a Nuisance

A. Any property upon which there exists property blight as set forth in the provisions of this Chapter is hereby declared and determined to be a nuisance.

B. The existence of any one or more of the conditions or activities described in Section 2.02 constitutes property blight.

C. A building, structure or premise is in a state of disrepair when any nuisance enumerated in Section 2.02 exists.

D. No person, whether as owner, agent, manager, operator, lessee, tenant, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.

E. No person, whether as owner, agent, manager, operator, lessee, sublessee, tenant or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this Chapter or any order issued pursuant to the provisions of this Chapter.

Section 2.02 Property Blight Nuisances Enumerated

The following shall constitute nuisances when caused, allowed, maintained, or suffered to exist within the jurisdiction of the City of Arlington:

A. Graffiti. Any part of the property, including any building or structure located on the property that is visible from a street or neighboring property, that contains Graffiti. Any property containing personal property items which contain graffiti and which may be viewed from the public way or a neighboring property constitutes property blight.

B. Unclean Premises. Any property, public or private, any yards, lots, alleys, stables, pens, cellars, vaults, drains, pools, wells, cisterns, privies, sewers, grounds, premises, or buildings of any character, containing accumulations of litter, refuse, garbage, rubbish, junk, dead carcasses, decaying flesh, fish, fowls, vegetables, stagnant water or other stagnant liquids, flammable liquids, slops, trash, or other deposits or substances of any and every character, which are likely to or do become unwholesome, filthy, unsightly, offensive, or unsanitary or likely to create or engender disease.

C. Fire Hazards. Any condition prohibited by the City of Arlington Fire Code.

D. Substandard Structure. Any structure which is in violation of Section 202 of the City of Arlington Uniform Housing Code, as amended, or any structure in violation of Section 16.03 of the Construction Chapter, as amended.

E. Exposure in Toilets. Any privy or water closet in such condition as to expose to view from without any person therein or contents thereof.

F. Stagnant, Foul and Offensive Water. Any stagnant, foul or offensive water upon any lot or other premises or under the floor of any building.

G. Animals. Keeping, breeding or raising animals in or about any place or premises in such numbers or in such manner that the same may become annoying, offensive or disturbing to the adjacent residents of or those passing by such places or premises or which by reason of numbers create filth in or about such premises or premises adjacent thereto.

H. Weeds. Weeds, brush or any vegetation which is unsightly, unsanitary or unsafe growing to a height greater than twelve (12) inches upon any property. It shall be the duty of all persons to keep the area from the line of their property to the curb line, edge of asphalt or point at which the roadway begins, regardless of the type of said roadway next adjacent to the property, free and clear of the matter referenced above. All vegetation not regularly cultivated which exceeds twelve (12) inches in height shall be presumed to be objectionable, unsanitary and unsightly.

I. Pollution of Surface Waters. Any condition prohibited by Article 2 of the Health Chapter of the City of Arlington Code, as amended.

J. Sight Obstruction. Any condition prohibited by Section 9.02 and 9.03 of the Streets Chapter of the City of Arlington Code, as amended.

K. Household Appliances. Any broken, discarded or abandoned refrigerator, freezer, water heater, dishwasher, range, oven, trash compactor, washing machine, clothes dryer or similar appliance located in the front, rear or side yard, including porches and unsecured garages, of any premises used as a residence.

Section 2.03 Other Nuisances Enumerated

The following shall constitute nuisances when caused, allowed, maintained, or suffered to exist within the jurisdiction of the City of Arlington:

A. Hauling Dead Carcasses. Hauling, carrying or transporting any slaughtered or dead animals or meat on, along, or upon any street, alley, highway, park or public grounds without having the same covered and protected from public view and screened from insects, germs and dust.

B. Opening in Streets, Etc. Keeping or leaving open or unclosed any vault, hole, cellar, or other opening on any property, street, sidewalk, alley, or other public thoroughfare, unless the same be sufficiently protected and guarded to insure safety to all passing by or near same.

C. Burning Certain Substances. Burning in the open: hair, leather, rags or other substances emitting an offensive, unhealthful or annoying smell, smoke or odor.

D. Slaughter Houses. Keeping, having or operating or suffering or permitting to exist on premises not zoned for such use any slaughter house, butcher pen, or other place where animals, fowls, or birds are slaughtered or killed.

E. Manner of Placing Litter in Receptacles. Placing litter in public receptacles or in authorized private receptacles in such manner as to allow it to be carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

F. Throwing, Depositing, Etc. Handbills in Public Places. Throwing or depositing any commercial or noncommercial handbills in or upon any sidewalk, street or other public place.

G. Dropping Litter From Aircraft. Throwing out, dropping or depositing from an aircraft any litter, handbills or any other object.

H. Fireworks. Possessing, keeping, storing, using, manufacturing, assembling, selling, handling, transporting, receiving, or offering for sale any fireworks, within the city and outside the city limits for a distance of 5,000 feet (provided that this

section shall not apply within any portion of such 5,000 foot distance which is contained within the territory of any other municipal corporation).

1. It shall be an affirmative defense to Section 2.03(H) that the possession, sale, or use was for signaling devices for current daily consumption by railroads, or other transportation businesses requiring them; or that the possession, sale, or use was for normal stocks of flashlight compositions by photographers, or dealers in photograph supplies; or that the possession, sale, or use was for signal flares or rockets for military or police use.

2. It shall be an affirmative defense to Section 2.03(H) that the possession, sale, or use was for supervised public displays of fireworks by the municipality, fair associations, amusement parks and other organizations or groups of individuals, provided that a permit for such fireworks display has theretofore been obtained from the Fire Marshal. The Fire Marshal shall have the power to adopt reasonable rules and regulations for the granting of such permits to include but not be limited to the following:

   a. Applications for permits shall be made in writing at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sale, possession, use, and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

   b. The permittee shall furnish proof of a liability insurance policy in coverage amounts of $100,000 per person, $300,000 per incident, and $100,000 property damage conditioned for the payment of damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or sub-contractors.

I. Defecating or Urinating in Public Places. Defecating or urinating upon any street, alley, park or any public grounds or upon any place visible to persons in any public street or other public place or private residence.

J. Sleeping in Public Places. Sleeping upon any alley, street, sidewalk, or other public grounds to which the people may resort.

K. Vehicle Spillage. Causing any items to be dropped or fall from a vehicle upon any street, alley, or other public way or upon the private property of any person without his effective consent.

L. Miscellaneous Conditions. Any condition prohibited by Chapter 341 of the Texas Health and Safety Code, as amended, entitled Minimum Standards of Sanitation and Health Protection Measures.

M. Noise.

1. The keeping of any animal or bird which, by causing frequent or long-continued noise disturbs the peace and quiet of persons in the neighborhood or the occupants of adjacent premises who have and possess normal nervous sensibilities.

2. Any condition prohibited by the Texas Penal Code, Section 42.01(a)(5), as amended.

ARTICLE III

PROHIBITED ACTS

Section 3.01 Committing Nuisances

It shall be unlawful for any owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, whether occupied or unoccupied, improved or unimproved, to commit an act or continue or maintain a condition declared to be a nuisance under the terms of this Code of Ordinances.

Section 3.02 **Penalty for Violation**

A. Any person violating Sections 2.02(A), 2.02(J), 2.02(K), 2.03(E), 2.03(F), 2.03(G), 2.03(J), 2.03(K), 2.03(L), or 2.03(M) of Article II of this chapter shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents ($500.00).

B. Any person violating any section of Article II or committing an act or continuing or maintaining a condition declared to be a nuisance by this Code of Ordinances, other than those enumerated in Section 3.02(A) hereof, shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00).

ARTICLE IV

ABATEMENT

Section 4.01 **Purpose**

The City of Arlington desires that property be maintained in an attractive and pleasant manner free of all nuisances. Premises that become unattractive because of high vegetation or other nuisance invite deterioration, vandalism and infestation and undermine the integrity of the neighborhoods and commercial areas where they exist. The procedures set forth in Nuisance Chapter Article IV in the City of Arlington Code of Ordinances apply to the abatement of all nuisances, unless otherwise specified.

Section 4.02 **Abatement by Owner - Duty**

It shall be the duty of the owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, whether occupied or unoccupied, improved or unimproved, on or in which any condition declared to be a nuisance under the terms of this Code of Ordinances is

found to exist, to remove or cause to be removed the prohibited nuisance at no cost to the City of Arlington. Failure to so remove or cause to be removed such a nuisance after notice to do so by City shall constitute a misdemeanor offense.

Section 4.03 Abatement by City

Whenever any nuisance, as declared under the terms of this Code of Ordinances, with the exception of Section 2.02(A), Graffiti, is found to exist, and no owner, occupant or person otherwise having supervision or control of the premises containing such nuisance can be located, or when immediate abatement of said nuisance is deemed necessary by the City of Arlington for the public health, safety and general welfare of its citizens, the City shall initiate the abatement process in accordance with Section 4.04 below. Costs associated with such nuisance abatement shall be borne by the owner, occupant or other person in control of the premises.

Section 4.04 Abatement Procedure

A. If any owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, shall fail to comply with the provisions of Section 4.02 above, said person may, in addition to being charged with a violation of this Chapter, be given notice to comply with the provisions of Section 4.02 above. Said notice shall be given by letter addressed and delivered to such person either by mailing it to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located or by personal delivery. If notice cannot be made in such manner, said notice shall be given by publication at least once, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings. If the notice is mailed to the property owner in accordance with this

section and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date mailed. If notice is made by publication, the publication shall be in a newspaper of general circulation in the community.

B. After the expiration of seven (7) days from the date the notice required in Subsection (A) above has been mailed and delivered or personally delivered, or published or posted, the City of Arlington may enter the premises containing the nuisance condition in accordance with this section and do or cause to be done any work necessary to bring such premises into compliance with this Chapter.

C. In a notice provided under this section, the City may also include terms of an annual notice which conforms to this subsection, except as otherwise noted in this Code of Ordinances. The annual notice terms shall inform the owner by regular mail and a posting on the property that, if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by the terms of the annual notice occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without further notice may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property as provided in this section.

D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense

thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

E. Any police officer of the City of Arlington or any other peace officer is empowered to stop the transportation of and detain any nuisance found being transported illegally until the appropriate officials which are hereinafter designated can be notified in order that the said nuisance may be seized and destroyed in accordance with the terms of this section.

F. Notwithstanding any penal, lien or notice provisions of this ordinance, the City Attorney of the City of Arlington is authorized to file suit on behalf of said City for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of a nuisance and to aid the hereinafter designated officials in the discharge of their duties and to particularly prevent any person from interfering or attempting to interfere with the seizure and destruction of such nuisance.

G. The hereinafter designated officials are hereby authorized to enter the public areas of any building or premises, not a private residence or dwelling, at all reasonable times where the unlawful presence of a nuisance is suspected, in order to inspect the same for the presence of such nuisance or to abate or destroy the nuisance, if such building or premises are occupied and conducting business. Such official shall first present proper credentials and demand entry, unless otherwise permitted by law. If such building or premises are unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if no owner or other person having charge or control of the building or premises can be located, or the area to be inspected is not a public area, the hereinafter designated officials shall have recourse to every remedy provided by law to secure entry.

ARTICLE V

NUISANCE PERSONAL PROPERTY

Section 5.01 Declaring Certain Property a Nuisance and Authorizing Impounding

A. Any personal property or obstruction placed, left standing, erected or lying in violation of any ordinance of the City, or left unattended for more than forty-eight (48) hours in or upon any public street, alley, sidewalk, park or other public property of the City is hereby declared to be a nuisance.

B. Any personal property or obstruction placed, left standing, erected or lying on private property without the consent of the owner, occupant or person otherwise in charge of the premises on which same is located is hereby declared to be a nuisance.

C. Any property found in violation of paragraphs A or B of this section and declared to be a nuisance may be removed summarily by or at the direction of the Chief of Police or any police officer of the City and shall be taken to a place of impoundment designated by the

Chief of Police and shall be kept there until redeemed or sold as hereinafter provided.

D. All personal property found in violation of paragraphs A or B of this section shall be kept at a designated place of impoundment and shall be held until claimed or required to be processed in accordance with Section 5.04.

E. It shall be unlawful and a violation hereof for any person to cause to exist any of the conditions hereinabove declared to be nuisances.

F. Providing, however, that nothing in paragraphs A and B of this section shall be construed as declaring the following items of personal property as nuisances, to-wit:

1. Weapons (as defined in the Texas Penal Code);

2. Property, the possession, use, sale, manufacture, transportation, repair or delivery of which is prohibited by law, or property (other than abandoned, lost or mislaid) which is regulated by Sections 5.03 or 5.04;

3. Motor vehicles.

Section 5.02 <u>Declaring Weapons a Nuisance and Authorizing Impounding, Sale and Destruction</u>

A. All weapons, as defined in V.T.C.A., Penal Code, Chapter 46, placed, left standing or lying in violation of any ordinance of the City, or left unattended in or upon any public street, alley, sidewalk, park or other public property of the City, are hereby declared to be a nuisance.

B. All weapons, as defined in V.T.C.A., Penal Code, Chapter 46, placed, left standing or lying in violation of any ordinance of the City, or left unattended in or upon private property without the consent of the owner, occupant or person otherwise in charge of the premises on which the same is located, may be declared to be a nuisance.

C. Any weapons found in violation of paragraphs A or B of this section and declared to be a nuisance may be removed summarily by or at the direction of the Chief of Police or any police officer of the City and shall be kept there until redeemed or, as hereinafter provided, otherwise disposed of.

D. 1. All weapons found in violation of A or B of this section (provided that nothing herein shall require the release of a weapon, regulated by Article 18.18 or 18.19, Texas Code of Criminal Procedure), which are not being held as evidence in any pending case, shall be held until processed in accordance with Section 5.04.

2. In the event destruction of the weapon is authorized, it shall be destroyed in the presence of two (2) police officers of the rank of Lieutenant or higher, who shall make a report under oath, listing the make, model, type and serial number of the property destroyed, together with the time, date, place and manner of destruction. Provided, however, that this subsection shall not apply to:

a. Unclaimed weapons which the Chief of Police of the City has determined to be serviceable, which shall be kept in reserve by the City Police Department for use in the event of civil disorder or disaster or which are deemed suitable for sale at public auction;

b. Unclaimed weapons which have been classified as "antique" or "collector's items" by a qualified expert in the firearms field and which shall be advertised as such and sold at public auction as provided herein. The Chief of Police shall determine and select a qualified expert in the firearms field to classify such weapons.

E. It shall be unlawful and a violation hereof for any person to cause to exist any of the conditions hereinabove declared to be a nuisance.

Section 5.03 **Disposition of Lost, Mislaid and Found Property**

All lost or mislaid personal property which is turned over to the Police Department shall be held for a period of sixty (60) days, during which time reasonable efforts to locate the owner shall be made. If such property remains unclaimed in the custody of the Police Department of the City for a period of sixty (60) days without being claimed by the owner thereof, the property may be returned to the finder in the case of lost property, or to the owner of the location where found in the case of mislaid property, upon payment of notice, impounding and storage fees. Where the finder is a City employee on duty, where the owner of the location where the property was found makes no claim, or where the property owner is identified, the property shall be held until claimed or required to be processed in accordance with V.T.C.A., Property Code, Sections 72.101-72.403. Provided that nothing herein shall require the release of property subject to forfeiture, prohibited weapons, as defined by the Prohibited Weapons Articles of the Weapons Chapter of the Texas Penal Code, property the possession of use, sale, manufacture, transportation, repair or delivery of which is prohibited by law, or motor vehicles.

Section 5.04 **Disposition of Property Seized**

All property (abandoned, lost, mislaid, stolen or recovered), contraband, dangerous drugs or controlled substances (the possession, use, sale, manufacture, transportation, repair or delivery of which is prohibited by law), and other property seized as evidence in connection with an offense under any ordinance of the City or the Texas Penal Code or being held as evidence in any pending case, shall be disposed of under the provisions of the Texas Code of Criminal Procedure, Articles 18.18, 18.19, 47.01-47.11, and 59.01-59.10; Chapters 481-485, Texas Health and Safety Code; and pursuant to procedures and policies of City, County, State or Federal law enforcement agencies. If said property is no longer held as evidence, it shall be disposed of under the provisions of Article 18.17, Texas Code of Criminal Procedure, and pursuant to procedures and policies of City, County, State or Federal law enforcement agencies.

Section 5.05 **Purchasing Agent of City to Administer Disposition of Property**

A. The Police Property Officer shall be the agent of the Purchasing Agent for the purposes of Article 18.17, Texas Code of Criminal Procedure, as they relate to storage and notices provided in Article 18.17(a), (b) and (c).

B. The Police Property Officer shall give to the Purchasing Agent of the City of Arlington a list of all property so impounded, and the Purchasing Agent shall administer the disposition of the property as herein provided.

Section 5.06 **Property Unclaimed to be Sold**

When any seized property is not claimed within thirty (30) days after being impounded, after compliance by the Police Property Officer with the provisions of Sections 5.04 and 5.05 hereof, the Purchasing Agent shall sell same at Public Auction in accordance with Article 18.17(d) and (e), or hold the property if required by Section 5.03, as appropriate. The law enforcement agency originally seizing the property may request and shall be given the property for agency use.

Section 5.07 **Redemption/Claim**

The owner or any person entitled to possession of such impounded personal property may:

A. Before sale. Redeem the property by paying to the Purchasing Agent the impounding fee and any other actual expenses incurred by the City in impounding, keeping and processing the impounded property, as determined by the Purchasing Agent.

B. After sale. Claim the proceeds within thirty (30) days from the sale of the property less the impounding fee and any other actual expenses incurred by the City in impounding, keeping and processing the impounded property, as determined by the Purchasing Agent.

ARTICLE VI

JUNKED VEHICLES

Section 6.01 Purpose

The City of Arlington believes that junked, abandoned, and/or legally unusable vehicles in public view are a detriment to the quality of life of Arlington residents and inhibit commerce. The presence of these vehicles erodes the integrity of the neighborhoods where they exist and undermines the safety, atmosphere and environment where family life and commerce takes place.

Section 6.02 Authority

This article is adopted pursuant to the authority provided by the Texas Transportation Code, Chapter 683, Subchapter E, and any successor statutes, to establish procedures for the abatement and removal from private or public property or public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

Section 6.03 Junked Vehicles Declared a Public Nuisance

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way is 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, and is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance.

Section 6.04 Offense

A. A person commits an offense if the person maintains a public nuisance described by Section 6.03 of this Chapter.

B. An offense under this section is a misdemeanor punishable by a fine not to exceed Two Hundred and No/100 Dollars ($200).

C. The court shall order abatement and removal of the nuisance on conviction.

Section 6.05 <u>Exceptions</u>

The following vehicles or parts thereof are excepted from the provisions of this ordinance:

A. A vehicle or vehicle part which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

B. A vehicle or vehicle part which is 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 or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are:

1. maintained in an orderly manner,

2. do not constitute a health hazard, and

3. are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

C. An unlicensed, operable or inoperable antique or special interest vehicle or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Section 6.06 **<u>Procedure for Disposition of Junked Vehicles</u>**

The procedure for the abatement and removal of a junked vehicle or part thereof, as a public nuisance, from private property, public property, or public right-of-way shall be as follows:

A. After a determination is made by the Director of Community Services or his designee that a particular vehicle is a junked vehicle or after an order issued by the municipal court pursuant to Section 6.04(C), there shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered or sent by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and to the owner or the occupant of the private premises whereupon such public nuisance exists. 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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

B. There shall be furnished not less than ten (10) days' notice, stating the nature of the public nuisance on public property or on public right-of-way and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered or mailed by certified mail with a five (5) day return requested, to the last known registered owner of the junked vehicle and all lien holders of record and, if on public right-of-way, to the owner or occupant of the property adjacent to the public right-of-way whereupon such public nuisance exists. 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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

C. After a vehicle has been removed, it shall not be reconstructed or made operable.

D. There shall be a public hearing prior to the removal of the vehicle or part thereof as a public nuisance if such hearing is requested by the last known registered owner of the motor vehicle, or by any lien holder of record, or 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 said vehicle is located, or by the Police Department. The public hearing shall be held before the Director of Community Services of the City of Arlington, or his designee, not earlier than the 11th day after the date of the service of notice to abate the nuisance. At the hearing, the vehicle which is the subject of the junked vehicle hearing is presumed, unless demonstrated otherwise by the owner, to be inoperable. Any resolution or order requiring the removal of a junked vehicle or part thereof must include the vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance. A Judge of the Municipal Court of the City of Arlington may issue necessary orders to enforce the procedures for the abatement and removal of a public nuisance under this Article.

E. The relocation of a junked vehicle that is a public nuisance to another location within the City, after a proceeding for the abatement and removal of such junked vehicle has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

F. Notice must be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal identifying the vehicle or part thereof. Said Department shall

cancel the certificate of title issued for the vehicle immediately on receipt of such notice.

G. The administration of the procedures herein shall be by the Community Services Department and Police Department of the City of Arlington, Texas, and by such other regularly salaried, full-time City employees as may be from time-to-time granted authority by the City's governing body to enforce this ordinance, except that the removal of junked vehicles or parts thereof from property may be by any duly authorized person.

H. A citation may be issued and a complaint may be filed in the Municipal Court of the City of Arlington for the violation of maintaining a public nuisance, if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided in Subsections (A) and (B).

Section 6.07 <u>Disposal of Junked (Inoperable) Vehicles</u>

A junked vehicle or part thereof may be disposed of by removal to a scrapyard, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.

Section 6.08 <u>Authority to Enforce</u>

Any peace officer, Code Enforcement officer or other regularly salaried, full-time City employee authorized to enforce this ordinance, may enter the public areas of any building or premises, not a private residence or dwelling, structure or completely enclosed structure on private property, at all reasonable times whenever necessary in the performance of his duties to inspect and investigate for violations of any law, or to enforce any law. The authority to inspect shall include but not be limited to the authority to examine vehicles or parts thereof, obtain information as to identity of vehicles and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance. If such building or premises be occupied

and involved in conducting business, he shall first present proper credentials and demand entry, unless otherwise permitted by law. If such entry is refused, or, if no owner or other person having charge or control of the building or premises can be located, he shall have recourse to every remedy provided by law to secure entry.

Section 6.09 Effect of Act on Other Laws

Nothing in this Article shall affect laws that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or laws that establish procedures for taking possession of abandoned motor vehicles.

ARTICLE VII

PARKING OF VEHICLES

Section 7.01 Parking Vehicles

A. Except as otherwise provided in this Section, it shall be unlawful for any person to park or to cause, suffer, maintain or allow to be parked upon any property under his control any automobile, truck, bus, motorcycle, motorhome, camper, trailer, truck tractor, road tractor, semi-trailer, pole trailer, boat or mobile home, on any yard including driveways:

(1) in front of,
(2) on the side yard of, or
(3) on the rear yard of

any single family residence, duplex or townhouse, or upon any property zoned "R", "R-1", "T" or "D".

B. Exceptions: 7.01(A) shall not apply: to automobiles, trucks, and vans, which have a carrying capacity of four thousand (4,000) pounds or less; to motorhomes, campers, and trailers, which have a length of less than thirty (30) feet; and to motorcycles and boats:

(1) when parked upon an all-weather parking facility; or

(2) when parked on any side yard when such vehicle is screened from view from any public street by a screening fence; or

(3) when parked on any rear yard which is not adjacent to one or more street corners; or

(4) when parked on any rear yard when such vehicle is screened from view from any public street by a screening fence.

Section 7.02 Public Parking of Vehicle for Sale Prohibited

A. Vehicle for Sale Parked in Unauthorized Location Declared a Public Nuisance. A Vehicle for Sale, when parked in an unauthorized location where it is visible from a public place or public right-of-way:

1. is detrimental to the safety and welfare of the general public,

2. tends to attract attention of passers-by on roadways where slowing traffic presents a hazard to motorists and to pedestrians,

3. leads drivers to enter onto the premises where the Vehicle for Sale is parked even when no legitimate paved access exists,

4. invites customer inspection in unprotected settings where inspection may be unsafe near moving traffic lanes,

5. contributes to a proliferation of vehicles parked in areas not generally designed for parking, such as vacant lots and other unpaved areas,

6. entices further misuse of an unauthorized location, paved or unpaved, for vehicle sales by other persons with Vehicles for Sale,

7. produces deleterious effects on the exercise of lawful vehicle sales at legitimate, authorized locations,

8. produces urban blight which is adverse to the maintenance and continuing development of the City, and

such Vehicles for Sale are therefore declared to be a public nuisance.

B. Offense

1. A person commits an offense when the person maintains a public nuisance described in Section 7.02(A):

   a. by parking the Vehicle for Sale at the unauthorized location, or

   b. by having ownership, care, custody or control of the unauthorized location where the Vehicle for Sale is parked.

2. An offense under this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

3. The Court shall order abatement and removal of the nuisance on conviction.

4. In a prosecution under this section, it is presumed that the registered owner of the Vehicle for Sale is the person who parked the Vehicle for Sale at the time and place the offense occurred.

C. Exemptions. The provisions of this ordinance do not apply to a Vehicle for Sale parked in a lawful manner in the course of its normal use as a means of transportation:

1. upon the premises of or immediately adjacent to a single-family residence if the vehicle is registered to, owned or operated by the owner or legal occupant of the single-family residence; or

2. in a permitted parking space at a multi-family housing facility if the vehicle is registered to, owned by or operated by the owner or legal

occupant of a unit in the multi-family housing facility ; or

3. in the parking area of a commercial establishment or place of business when the driver is then and there employed and working or is then and there transacting business at the establishment or business.

ARTICLE VIII

GRAFFITI

Section 8.01 Legislative Findings

The City of Arlington recognizes that graffiti that is visible from a public place, public right-of-way, or the property of others is dètrimental to the safety and welfare of the public, invites vandalism, additional graffiti, and other criminal activities, tends to reduce the value of private property, and produces property blight adverse to the maintenance and continuing development of the City of Arlington. The City of Arlington desires to prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The City Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the city.

The City Council intends, through the adoption of this Article, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Article to conflict with any existing anti-graffiti state laws.

Section 8.02 Graffiti Removal Requirement, Offense

A. It shall be the duty of the owner of any tangible property to remove or cause to be removed all graffiti

from the property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists.

B. Failure to remove or cause to be removed graffiti within forty-eight (48) hours after notice to do so by the City shall constitute an offense.

Section 8.03 Notice and Abatement by City

A. Notice. Whenever graffiti is found to exist, the owner shall be given notice to comply with Section 8.02 above. The notice shall contain a statement explaining the owner's right to request a hearing for the purpose of determining whether the conditions constitute a public nuisance under this Article. The notice shall be given by letter addressed and delivered to the owner either by mailing it to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located or by personal delivery. If notice cannot be made in such manner, the notice shall be given by publication at least once, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings. If the notice is mailed to the property owner in accordance with this section and the United States Postal Service returns the notice as "refused or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date mailed. If notice is made by publication, the publication shall be in a newspaper of general circulation in the community.

B. Abatement. After the expiration of seven (7) days from the date the notice required in Subsection (A) above has been mailed and delivered or personally delivered, or published or posted, and where the Administrator has not received a request for a

hearing, the City of Arlington may enter upon the property as allowed by law and do or cause to be done any work necessary to bring such premises into compliance with this Article.

C. Hearing.

1. If, within seven (7) days after the date the notice regarding the removal of graffiti is sent, the owner files with the Administrator a written request for a hearing, the Administrator will schedule a hearing within five (5) days after the date the request is filed. The request for hearing must contain an address and a phone number where notice of hearing can be given. At the hearing, the owner and the City may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the Administrator and subject to approval by the City Attorney.

2. The determination of the Hearing Officer after the hearing shall be final and not appealable. If, after the hearing, the Hearing Officer finds that conditions constituting a nuisance hereunder exist, the Hearing Officer shall give written notice in an abatement order that, unless the graffiti is removed within two (2) days from the date of the order, the City may enter upon the property and do or cause to be done any work necessary to bring such premises into compliance with this Article.

Section 8.04 Assessment of Expenses

The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens

for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%), or such rate allowed by law, from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

Section 8.05 Responsibility of Parent or Guardian for Graffiti Created By Minor

A parent or guardian of a minor commits an offense if he or she intentionally, knowingly, recklessly or with criminal negligence permits the minor to create graffiti on tangible property in the City without the property owner's consent.

Section 8.06 Possession of Aerosol Paint by Minor

A. Possessing Aerosol Paint. It shall be unlawful for a minor to possess aerosol paint of any sort or character.

B. Affirmative Defense. It shall be an affirmative defense to a violation of Section 8.06(A) that, at the time of possession, the minor was accompanied or supervised by a parent or guardian, a teacher in connection with a bona fide school project, a supervisor during the minor's regular employment, or that the minor possessed the aerosol paint on the property on which he or she lives or that the possession occurred as part of an organized event sponsored or supervised by the City, a school, a church or some other officially recognized entity.

Section 8.07 Enforcement

A. Enforcement. It shall be the duty of the Director of Community Services, the Chief of Police, the Fire Chief, the Director of Public Works and Transportation, the Director of Community Development and Planning, and their designees, to enforce this ordinance. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed Five Hundred and No/100 Dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

B. Affirmative Defenses. It is an affirmative defense to prosecution under this Article that no notice was served on the property owner, in compliance with Section 8.03.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be

unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 8th day of August, 2006, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 22nd day of August, 2006, by a vote of 9 ayes and 0

nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

BARBARA G. HEPTIG, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

Ordinance No. 07-045

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, relative to findings, nuisance definitions, the process of eliminating nuisance conditions that contribute to unsafe neighborhoods, updating the chapter, and organizing various sections; providing for a fine of up to $2000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended to read as follows:

ARTICLE I

DEFINITIONS AND PROHIBITIONS

Section 1.01 Findings and Purpose

A. The Arlington City Council makes the following findings:

1. A nuisance is a condition which substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities attempting to use and enjoy land.

2. A nuisance is a condition that may cause physical harm to property; physical harm to a person on his or her property; or emotional harm to a person from the deprivation of the enjoyment of

his or her property, such as by fear, apprehension, offense, or loss of peace of mind.

3. Whatever is dangerous to human health or welfare, or whatever renders the ground, water, air or food a hazard to human health is declared to be a nuisance;

4. The condition of neglect of maintenance of property and the condition of vacant property both depreciate the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which the property is situated.

5. It is necessary to provide for the abatement of nuisance conditions in the interest of public necessity when such conditions are offensive or annoying to the senses and detrimental to property values and community appearance.

6. It is further necessary to the extent of public necessity to provide for the abatement of nuisance conditions that interfere with the comfortable enjoyment of adjacent property or hazardous or injurious conditions detrimental to the health, safety or welfare of the general public.

B. The purpose of this Chapter is to:

1. Promote the public health, safety and welfare by requiring a minimum level of maintenance of private property to protect the livability, appearance, and economic stability of the City.

2. Protect the public from the health and safety hazards and the impairment of property values that result from the neglect and deterioration of property.

3. Eliminate property conditions that contribute to blighted neighborhoods.

4. Prevent the spread of disease.

5. Safeguard the health, safety and welfare of the people by maintaining property in a safe condition.

6. Reduce the threat to health, safety, welfare, and reduced economic value due to the decline in property conditions by delineating the circumstances under which such conditions may be considered illegal nuisances and therefore abated.

7. Abate nuisances in the best interest of the health, safety and welfare of the residents of the City because use and enjoyment of property or premises in proximity to one another depends upon maintenance of those properties free of nuisance conditions, and to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

Section 1.02 Definitions

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Administrator - the City Manager designated Department Directors or their designees that are responsible for enforcement of this chapter.

Aerosol Paint - an aerosolized paint product, including a clear or pigmented lacquer or finish.

Aircraft - any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

All-Weather Parking Facility - asphalt or concrete paving suitable for vehicle parking.

Alley - includes property within the limits of a designated alley as reflected in Tarrant County real estate records including utility and other easements within the boundaries of an alley.

Antique Vehicle - a passenger car or truck that is at least 25 years old.

Dilapidated Fence - any fence in a dilapidated, improper state of repair that causes a safety or health concern. It includes any fencing that by its age or deteriorating condition lists, leans, buckles or is broken or has exposed pieces projecting, protruding or laying in a manner which could fall or be hazardous to persons walking or driving along public property including street or right of way or public easements; fencing that by improper position on or near the ground is situated in such a manner as to offer harborage to vermin; fencing that is damaged by animals or by other means such that the fence condition is unsafe and deleterious to the livability of the neighborhood; any eight foot (8') section of a fence that is more than fifteen degrees (15°) out of vertical alignment or that has ten percent (10%) of its pickets or structural components either damaged, missing or rotted.

Fireworks - any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

Garbage - all decayable wastes, including vegetable, animal and fish offal and carcasses of such animals and fish, and shall include all such substances from all public and private establishments and from all residences.

Graffiti - any unauthorized inscription, word, signature, symbol or other marking of any sort which is etched, written, painted, drawn or applied in any other way to any structure, building or property of any sort or to any

portion or element thereof, whether the property is public or private.

Guardian - a person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

Handbill - any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

Hearing Officer - the Administrator.

Junk - all worn-out, worthless, and discarded material, in general, including but not limited to old iron or other metal, glass, paper, cordage or other waste or discarded materials.

Junked Vehicle - a vehicle that:

1. is self-propelled and

    a. does not have lawfully attached to it an unexpired license plate, or

    b. does have lawfully attached to it an unexpired license plate but does not have lawfully attached to it a valid motor vehicle inspection certificate; and

2. is:

    a. wrecked, dismantled or partially dismantled, or discarded, or

    b. substantially disfigured, damaged, or disintegrated, or

    c. ruined, destroyed or demolished; or

    d. inoperable and has remained inoperable for more than:

        i. seventy-two (72) consecutive hours, if the vehicle is on public property;

        ii. thirty (30) consecutive days if the vehicle is on private property.

Landscape in an Unsafe State of Disrepair - any vegetation, landscape, trees, bushes, shrubs, vines, brush or ground cover plants that due to lack of trimming, pruning, or shaping or other neglect is in an unsafe state of disrepair. Landscape in an unsafe state of disrepair may include trees or shrubs or vines or brush or ground cover that presents a safety hazard due to death or disease or damage.

Litter - all garbage, refuse and rubbish, as defined herein, and all other material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

Littering - the discarding of garbage, paper, and other forms of refuse in any place other than officially designated refuse containers or disposal units.

Minor - any person under seventeen (17) years of age.

Motor Vehicle - any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

Motor Vehicle Collector - a person who owns one or more antique or special interest vehicles and who collects, purchases, 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 for historic interest.

Motor Vehicle Demolisher - any person in the business of converting motor vehicles into processed scrap or scrap metal, or to otherwise wreck or dismantle motor vehicles.

Nuisance Tarp - material used for screening from view a vehicle, boat, trailer or other item that is torn or defective or worn or is not fitted and manufactured for a specific vehicle.

Nuisance Vehicle - any vehicle, including an all-terrain vehicle, boat, or personal watercraft, that:

1. is self-propelled and

2. is:

    a. wrecked, dismantled or partially dismantled, or discarded, or unattended on jack stands or blocks or other means, or

b. in a condition with two or more flat tires for 14 days or more, or is missing two or more wheels for 14 days or more, or

c. used primarily for storage and remains unmoved for 14 days or more, or

d. a habitat for rats, mice or snakes, or

e. substantially disfigured, damaged, or disintegrated, or

f. ruined, destroyed or demolished; or

g. inoperable and has remained inoperable for more than:

   i. seventy-two (72) consecutive hours, if the vehicle is on public property;

   ii. thirty (30) consecutive days if the vehicle is on private property.

Owner - occupant or person otherwise having supervision or control of any lot, tract, or parcel of land or portion thereof or any building or portion thereof.

Parent - a person who is a natural parent, adoptive parent or stepparent of another person.

Person - any natural person, association of persons, partnership, corporation, agent or officer, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, administrators, parents, and guardians.

Public Highway - the entire width between property lines including the non-paved area of a street right-of-way, of any road, street, way, thoroughfare, bridge, public beach, or park in this City not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic or which is used as a public recreational area and/or over which the City has legislative jurisdiction under its police power.

Rear Yard - that area of a lot circumscribed by the back lot line, the side lot lines extending to imaginary lines perpendicular from the back corners of the residential structure, and the back side of the residential structure.

Refuse - all garbage, rubbish, and all other decayable and non-decayable waste, including vegetable, animal and fish carcasses, except sewage from all public and private establishments and residences.

Rubbish - all non-decayable wastes, from all public and private establishments and from all residences.

Screening Fence - a barrier at least six feet (6') in height of stone, brick, pierced brick or block, uniformly colored wood or other permanent material which forms a visual barrier of equal character, density and design; provided, however, any such structure in excess of eight feet (8') in height shall be deemed a wall subject to the provisions of the Building Code of the City of Arlington. For the purposes of this Chapter, a vehicle shall be deemed to be screened from view when it is behind a screening fence.

Side Yard - the area behind an imaginary line extending perpendicularly from the front corner of the residential structure to the side lot line, extending to an imaginary line perpendicular to the side lot line which touches the back corner of the residential structure closest to the side lot line at which point the "rear yard" begins.

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

Storage Facility - a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Unauthorized - without the permission of the owner or person in control of property, whether public or private.

Unauthorized Location for Vehicle for Sale - any area where a Vehicle for Sale is parked when that area does not have both a certificate of occupancy issued by the City of Arlington for the sale of vehicles and a license from the Texas Department of Transportation for the sale of vehicles at that location.

Vehicle for Sale - any motor vehicle, boat, trailer, jet ski, recreational vehicle, camper or other vehicle (collectively called "vehicle" or "vehicles") having

displayed thereon any writing or signage indicating such vehicle is for sale.

Section 1.03 <u>Power to Define and Prohibit</u>

The City of Arlington, acting by and through its duly authorized officers, agents and representatives, as designated herein, shall have the power to:

A. Define all nuisances and prohibit the same within the City and outside the City limits for a distance of five thousand (5,000) feet (provided that this ordinance shall not apply within any portion of such five thousand foot area which is contained within the territory of any other municipal corporation);

B. Police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said City and lying outside of said City;

C. Prohibit the pollution of any stream, drain or tributaries thereof which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any watersheds and the policing of same;

Inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the City, from which meat or milk is furnished to the inhabitants of the City, as provided in Texas Local Government Code, Sections 51.071-51.079, which grants such powers and authorizes such acts. All powers granted under such article of the Revised Civil Statutes are specifically adopted and made a part hereof.

Section 1.04 <u>Authority to Enforce Chapter</u>

The City Manager designated Department Directors, or their designees, are authorized to enforce the terms and conditions of this Chapter when violations occur.

ARTICLE II

NUISANCES ENUMERATED

Section 2.01 Property Blight Declared a Nuisance

A. Any property upon which there exists property blight as set forth in the provisions of this Chapter is hereby declared and determined to be a nuisance.

B. The existence of any one or more of the conditions or activities described in Section 2.02 constitutes property blight.

C. A building, structure or premise is in a state of disrepair when any nuisance enumerated in Section 2.02 exists.

D. No person, whether as owner, agent, manager, operator, lessee, tenant, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.

E. No person, whether as owner, agent, manager, operator, lessee, sublessee, tenant or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this Chapter or any order issued pursuant to the provisions of this Chapter.

Section 2.02 Property Blight Nuisances Enumerated

The following shall constitute nuisances when caused, allowed, maintained, or suffered to exist within the jurisdiction of the City of Arlington:

A. Graffiti. Any part of the property, including any building or structure located on the property that is visible from a street or neighboring property, that contains Graffiti. Any property containing personal property items which contain graffiti and which may be viewed from the public way or a neighboring property constitutes property blight.

B. Unclean Premises. Any public or private property, any yards, lots, alleys, stables, animal pens or

enclosures for animals which become offensive to persons of ordinary sensibilities due to objectionable odors or accumulation of waste and fecal matter, cellars, vaults, drains, pools, wells, cisterns, privies, sewers, grounds, premises, or buildings of any character, containing accumulations of litter, limbs, unsanitary matter of any kind, refuse, garbage, rubbish, junk, dead carcasses, decaying flesh, fish, fowls, vegetables, stagnant water or other stagnant or unsanitary liquids or unsanitary water on the ground or in a vessel, flammable liquids, slops, trash, or other deposits or substances of any and every character, which are likely to or do become unwholesome, filthy, unsightly, offensive, or unsanitary or likely to create or engender disease. Unclean Premises shall also be areas or conditions that harbor rodents or parasitic insects, or promotes mosquito breeding; or with dilapidated fences, or poison oak or poison ivy or other poisonous plant within 50 feet of a structure or fence line.

C. Fire Hazards. Any condition prohibited by the City of Arlington Fire Code.

D. Substandard Structure. Any structure which is in violation of Section 202 of the City of Arlington Uniform Housing Code, as amended, or any structure in violation of Section 16.03 of the Construction Chapter, as amended.

E. Exposure in Toilets. Any privy or water closet in such condition as to expose to view from without any person therein or contents thereof.

F. Stagnant, Foul and Offensive Water. Any stagnant, foul or offensive water upon any lot or other premises or under the floor of any building.

G. Animals. Keeping, breeding or raising animals in or about any place or premises in such numbers or in such manner that the same may become annoying, offensive or disturbing to the adjacent residents of or those passing by such places or premises or which by reason of numbers create filth in or about such premises or premises adjacent thereto.

H. Weeds. Weeds, brush or any vegetation which is unsightly, unsanitary or unsafe growing to a height greater than twelve (12) inches upon any property. It

shall be the duty of all persons to keep the area from the line of their property to the curb line, edge of asphalt or point at which the roadway begins, regardless of the type of said roadway next adjacent to the property, free and clear of the matter referenced above. All vegetation not regularly cultivated which exceeds twelve (12) inches in height shall be presumed to be objectionable, unsanitary and unsightly. It is an affirmative defense to prosecution that the weeds, brush or vegetation which is growing to a height greater than twelve (12) inches is a garden, a natural habitat preservation area, or agricultural crop.

Pollution of Surface Waters. Any condition prohibited by the Health Chapter of the City of Arlington Code, as amended.

Sight Obstruction. Any condition prohibited by Section 9.02 and 9.03 of the Streets Chapter of the City of Arlington Code, as amended.

K. Household Appliances. Any broken, discarded or abandoned refrigerator, freezer, water heater, dishwasher, range, oven, trash compactor, washing machine, clothes dryer or similar appliance located in the front, rear or side yard, including porches and unsecured garages, of any premises used as a residence regardless of zoning, or on any vacant lot.

Landscape in an unsafe State of Disrepair. Any vegetation, landscape, trees, bushes, shrubs, vines, brush or ground cover plants that due to lack of trimming, pruning, or shaping or other neglect is in a state of disrepair. Landscape in an unsafe state of disrepair may include trees or shrubs or vines or brush or ground cover that presents a safety hazard due to death or disease or damage.

M. Nuisance Outside Storage. Storage or accumulation outside of an enclosed structure including the storage or accumulation under a carport or covered patio or other projecting overhang on any lot, tract or parcel of land or portion thereof of any objectionable, impure, unwholesome, filthy, or unsanitary matter including the storage or accumulation of the following items that present health or safety hazards:

1. Broken, inoperable, deteriorated, dismantled or discarded indoor (non-weather resistant)

furniture, appliances, machines, tools, boxes, and cartons, and lawn maintenance equipment;

2. Used, deteriorated or discarded building materials or supplies;

3. Wet, broken or leaking barrels, casks, or boxes;

4. Used, discarded, or broken automotive parts or equipment including engines, transmissions, electrical parts, suspension parts, vehicle body parts, batteries, tires, wheels, hubcaps and other motor vehicle parts;

5. Firewood that is not stacked a minimum of twelve (12) inches off the ground;

6. Trash, garbage or other refuse; or

7. Any other material which tends to decay or become putrid or provides harborage for rodents and other vermin.

The following are exceptions to Nuisance Outside Storage:

1. Building materials or supplies stored in a workmanlike manner as part of and in conjunction with, an active building permit and is in compliance with all other City ordinances.

2. Non-hazardous material or items of any kind:

   a. awaiting pickup by the city or other sanitation service;

   b. in a container or bag as approved by the city; and

   c. in an approved location for the city or other sanitation service pickup.

The following is an affirmative defense to Nuisance Outside Storage:

1. Outside storage with a legal land use and is in compliance with all other City ordinances.

N. Nuisance Tarp. Material used for screening from view a vehicle, boat, trailer or other item that is torn or

defective or worn or is not fitted and manufactured for a specific vehicle.

Section 2.03 Other Nuisances Enumerated

The following shall constitute nuisances when caused, allowed, maintained, or suffered to exist within the jurisdiction of the City of Arlington:

A. Hauling Dead Carcasses. Hauling, carrying or transporting any slaughtered or dead animals or meat on, along, or upon any street, alley, highway, park or public grounds without having the same covered and protected from public view and screened from insects, germs and dust.

B. Opening in Streets, Etc. Keeping or leaving open or unclosed any vault, hole, cellar, or other opening on any property, street, sidewalk, alley, or other public thoroughfare, unless the same be sufficiently protected and guarded to insure safety to all passing by or near same.

C. Burning Certain Substances. Burning in the open: hair, leather, rags or other substances emitting an offensive, unhealthful or annoying smell, smoke or odor.

D. Slaughter Houses. Keeping, having or operating or suffering or permitting to exist on premises not zoned for such use any slaughter house, butcher pen, or other place where animals, fowls, or birds are slaughtered or killed.

E. Manner of Placing Litter in Receptacles. Placing litter in public receptacles or in authorized private receptacles in such manner as to allow it to be carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

F. Throwing, Depositing, Handbills in Public Places. Throwing or depositing any commercial or noncommercial handbills in or upon any sidewalk, street or other public place.

G. Dropping Litter From Aircraft. Throwing out, dropping or depositing from an aircraft any litter, handbills or any other object.

H. Fireworks. Possessing, keeping, storing, using, manufacturing, assembling, selling, handling, transporting, receiving, or offering for sale any fireworks, within the city and outside the city limits for a distance of 5,000 feet (provided that this section shall not apply within any portion of such 5,000 foot distance which is contained within the territory of any other municipal corporation).

1. It shall be an affirmative defense to Section 2.03(H) that the possession, sale, or use was for signaling devices for current daily consumption by railroads, or other transportation businesses requiring them; or that the possession, sale, or use was for normal stocks of flashlight compositions by photographers, or dealers in photograph supplies; or that the possession, sale, or use was for signal flares or rockets for military or police use.

2. It shall be an affirmative defense to Section 2.03(H) that the possession, sale, or use was for supervised public displays of fireworks by the municipality, fair associations, amusement parks and other organizations or groups of individuals, provided that a permit for such fireworks display has theretofore been obtained from the Fire Marshal. The Fire Marshal shall have the power to adopt reasonable rules and regulations for the granting of such permits to include but not be limited to the following:

a. Applications for permits shall be made in writing at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sale, possession, use, and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

b. The permittee shall furnish proof of a liability insurance policy in coverage amounts of $100,000 per person, $300,000 per incident, and $100,000 property damage

conditioned for the payment of damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or sub-contractors.

I. Defecating or Urinating in Public Places. Defecating or urinating upon any street, alley, park or any public grounds or upon any place visible to persons in any public street or other public place or private residence.

J. Sleeping in Public Places. Sleeping upon any alley, street, sidewalk, or other public grounds to which the people may resort.

K. Vehicle Spillage. Causing any items to be dropped or fall from a vehicle upon any street, alley, or other public way or upon the private property of any person without his effective consent.

L. Miscellaneous Conditions. Any condition prohibited by Chapter 341 of the Texas Health and Safety Code, as amended, entitled Minimum Standards of Sanitation and Health Protection Measures.

M. Noise.

1. The keeping of any animal or bird which, by causing frequent or long-continued noise disturbs the peace and quiet of persons in the neighborhood or the occupants of adjacent premises who have and possess normal nervous sensibilities.

2. Any condition prohibited by the Texas Penal Code, Section 42.01(a)(5), as amended.

ARTICLE III

PROHIBITED ACTS

Section 3.01 Committing Nuisances

It shall be unlawful for any owner, occupant or person otherwise having supervision or control of any lot, tract

or parcel of land or portion thereof, or any building or portion thereof, whether occupied or unoccupied, improved or unimproved, to commit an act or continue or maintain a condition declared to be a nuisance under the terms of this Code of Ordinances.

Section 3.02 Penalty for Violation

A. Any person violating Sections 2.02(A), Graffiti; 2.02(J), Sight Obstruction; 2.02(K), Household Appliances; 2.02(L), Landscape in an Unsafe State of Disrepair; 2.02(M), Nuisance Outside Storage; 2.02(N), Nuisance Tarp; 2.03(E),Manner of Placing Litter in Receptacles; 2.03(F), Throwing, Depositing Handbills in Public Places; 2.03(G), Dropping Litter From Aircraft; 2.03(J), Sleeping in Public Places; 2.03(K), Vehicle Spillage; 2.03(L), Miscellaneous Conditions; or 2.03(M), Noise; of Article II of this chapter shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents ($500.00).

B. Any person violating any section of Article II or committing an act or continuing or maintaining a condition declared to be a nuisance by this Code of Ordinances, other than those enumerated in Section 3.02(A) hereof, shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00) as allowed by law.

ARTICLE IV

ABATEMENT

Section 4.01 Purpose

The City of Arlington desires that property be maintained in an attractive and pleasant manner free of all nuisances. Premises that become unattractive because of high vegetation or other nuisance invite deterioration, vandalism and infestation and undermine the integrity of the neighborhoods and commercial areas where they exist. The procedures set forth in Nuisance Chapter Article IV in

the City of Arlington Code of Ordinances apply to the abatement of all nuisances, unless otherwise specified.

Section 4.02 Abatement by Owner - Duty

It shall be the duty of the owner, occupant or person otherwise having supervision or control of any lot, tract or parcel of land or portion thereof, or any building or portion thereof, whether occupied or unoccupied, improved or unimproved, on or in which any condition declared to be a nuisance under the terms of this Code of Ordinances is found to exist, to remove or cause to be removed the prohibited nuisance at no cost to the City of Arlington. Failure to so remove or cause to be removed such a nuisance after notice to do so by City shall constitute a misdemeanor offense.

Section 4.03 Abatement by City

Whenever any nuisance, as declared under the terms of this Code of Ordinances, with the exception of Section 2.02(A), Graffiti, is found to exist, and no owner, occupant or person otherwise having supervision or control of the premises containing such nuisance can be located, or when immediate abatement of said nuisance is deemed necessary by the City of Arlington for the public health, safety and general welfare of its citizens, the City shall initiate the abatement process in accordance with Section 4.04 below. Costs associated with such nuisance abatement shall be borne by the owner, occupant or other person in control of the premises.

Section 4.04 Abatement Procedure

A. If any owner shall fail to comply with the provisions of Section 4.02 above, said person may, in addition to being charged with a violation of this Chapter, be given notice to comply with the provisions of Section 4.02 above. The notice shall contain a statement explaining the right of the owner to request a hearing for the purpose of determining whether the conditions constitute a nuisance under this Chapter. The notice shall be given by letter addressed and delivered to such person either by mailing it to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the

property is located or by personal delivery. If notice cannot be made in such manner, the notice shall be given by publication at least once, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings. If the notice is mailed to the property owner in accordance with this section and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date mailed. If notice is made by publication, the publication shall be in a newspaper of general circulation in the community.

B. An owner, after notice required in Subsection (A) above, shall respond to the notice before the expiration of seven (7) days from the date the notice has been mailed and delivered or personally delivered or published or posted.

1. If the Administrator has not received a timely request for a hearing, the City of Arlington may enter the premises containing the nuisance condition as allowed by law in accordance with this section and do or cause to be done any work necessary to bring such premises into compliance with this Chapter.

2. If the Administrator has received a request for hearing, the following shall occur:

a. The Administrator will schedule a hearing within five (5) days after the date the request is filed unless the parties agree to a certain date beyond the five (5) days. The owner request for hearing must contain an address and a phone number where notice of hearing can be provided. At the hearing, the owner and the City may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by

the Administrator and subject to approval by the City Attorney.

b. If, after the hearing, the Hearing Officer finds that conditions constituting a nuisance exist, the Hearing Officer shall give written notice of the findings in an abatement order to the owner that, unless the conditions are abated or the order is appealed within three (3) days from the date of the order, the City may enter upon the property as allowed by law in accordance with this section and do or cause to be done any work necessary to bring such premises into compliance with this Chapter.

c. The determination of the Hearing Officer shall be final unless timely appealed by the owner to a court of competent jurisdiction within three (3) days from the date of receipt of the abatement order. The filing of such appeal shall have the effect of staying the order pending a judicial determination of the appeal unless the nuisance condition is reasonably determined by the Hearing Officer to be an immediate threat to health or safety.

C. In a notice provided under this section, the City may also include terms of an annual notice which conforms to this subsection and Chapter 342 of the Texas Health and Safety Code, except as otherwise noted in this Code of Ordinances. The annual notice terms shall inform the owner by regular mail and a posting on the property that, if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by the terms of the annual notice occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without further notice may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property as provided in this section.

D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

E. Any police officer of the City of Arlington or any other peace officer is empowered to stop the transportation of and detain any nuisance found being transported illegally until the appropriate officials which are hereinafter designated can be notified in order that the said nuisance may be seized and destroyed in accordance with the terms of this section.

Notwithstanding any penal, lien or notice provisions of this ordinance, the City Attorney of the City of Arlington is authorized to file suit on behalf of said City for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of a nuisance and to aid the hereinafter designated officials in the discharge of their duties and to particularly prevent any person from interfering or attempting to interfere with the seizure and destruction of such nuisance.

G. The hereinafter designated officials are hereby authorized to enter the public areas of any building or premises, not a private residence or dwelling, at all reasonable times where the unlawful presence of a nuisance is suspected, in order to inspect the same for the presence of such nuisance or to abate or destroy the nuisance, if such building or premises are occupied and conducting business. Such official shall first present proper credentials and demand entry, unless otherwise permitted by law. If such building or premises are unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if no owner or other person having charge or control of the building or premises can be located, or the area to be inspected is not a public area, the hereinafter designated officials shall have recourse to every remedy provided by law to secure entry.

ARTICLE V

NUISANCE PERSONAL PROPERTY

Section 5.01 Declaring Certain Property a Nuisance and Authorizing Impounding

A. Any personal property or obstruction placed, left standing, erected or lying in violation of any ordinance of the City, or left unattended for more than forty-eight (48) hours in or upon any public street, alley, sidewalk, park or other public property of the City is hereby declared to be a nuisance.

B. Any personal property or obstruction placed, left standing, erected or lying on private property without the consent of the owner, occupant or person otherwise in charge of the premises on which same is located is hereby declared to be a nuisance.

C. Any property found in violation of paragraphs A or B of this section and declared to be a nuisance may be removed summarily by or at the direction of the City Manager designated Department Directors or their designees, and shall be taken to a place of impoundment designated by the Chief of Police and

shall be kept there until redeemed or sold as hereinafter provided.

D. All personal property found in violation of paragraphs A or B of this section shall be kept at a designated place of impoundment and shall be held until claimed or required to be processed in accordance with Section 5.04.

E. It shall be unlawful and a violation hereof for any person to cause to exist any of the conditions hereinabove declared to be nuisances.

F. Providing, however, that nothing in paragraphs A and B of this section shall be construed as declaring the following items of personal property as nuisances, to-wit:

1. Weapons (as defined in the Texas Penal Code);

2. Property, the possession, use, sale, manufacture, transportation, repair or delivery of which is prohibited by law, or property (other than abandoned, lost or mislaid) which is regulated by Sections 5.03 or 5.04;

3. Motor vehicles.

Section 5.02 <u>Declaring Weapons a Nuisance and Authorizing Impounding, Sale and Destruction</u>

A. All weapons, as defined in V.T.C.A., Penal Code, Chapter 46, placed, left standing or lying in violation of any ordinance of the City, or left unattended in or upon any public street, alley, sidewalk, park or other public property of the City, are hereby declared to be a nuisance.

B. All weapons, as defined in V.T.C.A., Penal Code, Chapter 46, placed, left standing or lying in violation of any ordinance of the City, or left unattended in or upon private property without the consent of the owner, occupant or person otherwise in charge of the premises on which the same is located, may be declared to be a nuisance.

C. Any weapons found in violation of paragraphs A or B of this section and declared to be a nuisance may be

removed summarily by or at the direction of the Chief of Police or any police officer of the City and shall be kept there until redeemed or, as hereinafter provided, otherwise disposed of.

D. 1. All weapons found in violation of A or B of this section (provided that nothing herein shall require the release of a weapon, regulated by Article 18.18 or 18.19, Texas Code of Criminal Procedure), which are not being held as evidence in any pending case, shall be held until processed in accordance with Section 5.04.

2. In the event destruction of the weapon is authorized, it shall be destroyed in the presence of two (2) police officers of the rank of Lieutenant or higher, who shall make a report under oath, listing the make, model, type and serial number of the property destroyed, together with the time, date, place and manner of destruction. Provided, however, that this subsection shall not apply to:

a. Unclaimed weapons which the Chief of Police of the City has determined to be serviceable, which shall be kept in reserve by the City Police Department for use in the event of civil disorder or disaster or which are deemed suitable for sale at public auction;

b. Unclaimed weapons which have been classified as "antique" or "collector's items" by a qualified expert in the firearms field and which shall be advertised as such and sold at public auction as provided herein. The Chief of Police shall determine and select a qualified expert in the firearms field to classify such weapons.

E. It shall be unlawful and a violation hereof for any person to cause to exist any of the conditions hereinabove declared to be a nuisance.

Section 5.03 <u>Disposition of Lost, Mislaid and Found Property</u>

All lost or mislaid personal property which is turned over to the Police Department shall be held for a period of

sixty (60) days, during which time reasonable efforts to locate the owner shall be made. If such property remains unclaimed in the custody of the Police Department of the City for a period of sixty (60) days without being claimed by the owner thereof, the property may be returned to the finder in the case of lost property, or to the owner of the location where found in the case of mislaid property, upon payment of notice, impounding and storage fees. Where the finder is a City employee on duty, where the owner of the location where the property was found makes no claim, or where the property owner is identified, the property shall be held until claimed or required to be processed in accordance with V.T.C.A., Property Code, Sections 72.101-72.403. Provided that nothing herein shall require the release of property subject to forfeiture, prohibited weapons, as defined by the Prohibited Weapons Articles of the Weapons Chapter of the Texas Penal Code, property the possession of use, sale, manufacture, transportation, repair or delivery of which is prohibited by law, or motor vehicles.

Section 5.04 <u>Disposition of Property Seized</u>

All property (abandoned, lost, mislaid, stolen or recovered), contraband, dangerous drugs or controlled substances (the possession, use, sale, manufacture, transportation, repair or delivery of which is prohibited by law), and other property seized as evidence in connection with an offense under any ordinance of the City or the Texas Penal Code or being held as evidence in any pending case, shall be disposed of under the provisions of the Texas Code of Criminal Procedure, Articles 18.18, 18.19, 47.01-47.11, and 59.01-59.10; Chapters 481-485, Texas Health and Safety Code; and pursuant to procedures and policies of City, County, State or Federal law enforcement agencies. If said property is no longer held as evidence, it shall be disposed of under the provisions of Article 18.17, Texas Code of Criminal Procedure, and pursuant to procedures and policies of City, County, State or Federal law enforcement agencies.

Section 5.05 <u>Purchasing Agent of City to Administer Disposition of Property</u>

A. The Police Property Officer shall be the agent of the Purchasing Agent for the purposes of Article 18.17, Texas Code of Criminal Procedure, as they relate to

storage and notices provided in Article 18.17(a), (b) and (c).

B. The Police Property Officer shall give to the Purchasing Agent of the City of Arlington a list of all property so impounded, and the Purchasing Agent shall administer the disposition of the property as herein provided.

Section 5.06 Property Unclaimed to be Sold

When any seized property is not claimed within thirty (30) days after being impounded, after compliance by the Police Property Officer with the provisions of Sections 5.04 and 5.05 hereof, the Purchasing Agent shall sell same at Public Auction in accordance with Article 18.17(d) and (e), or hold the property if required by Section 5.03, as appropriate. The law enforcement agency originally seizing the property may request and shall be given the property for agency use.

Section 5.07 Redemption/Claim

The owner or any person entitled to possession of such impounded personal property may:

A. Before sale. Redeem the property by paying to the Purchasing Agent the impounding fee and any other actual expenses incurred by the City in impounding, keeping and processing the impounded property, as determined by the Purchasing Agent.

B. After sale. Claim the proceeds within thirty (30) days from the sale of the property less the impounding fee and any other actual expenses incurred by the City in impounding, keeping and processing the impounded property, as determined by the Purchasing Agent.

ARTICLE VI

JUNKED AND NUISANCE VEHICLES

Section 6.01 Purpose

The City of Arlington believes that junked, nuisance, abandoned, and/or legally unusable vehicles in public view

are a detriment to the quality of life of Arlington residents and inhibit commerce. The presence of these vehicles erodes the integrity of the neighborhoods where they exist and undermines the safety, atmosphere and environment where family life and commerce takes place.

Section 6.02 Authority

This article is adopted pursuant to the authority provided by Municipal Home Rule and the Texas Transportation Code, Chapter 683, Subchapter E, and any successor statutes or other law, to establish procedures for the abatement and removal from private or public property or public right-of-way of a junked or nuisance vehicle or part of a junked or nuisance vehicle as a public nuisance.

Section 6.03 Junked Vehicles and Nuisance Vehicles Declared Public Nuisances

A. A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way is 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, and is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance.

B. A nuisance vehicle, including a part of a nuisance vehicle, that is visible at any time of the year from a public place, public right-of-way or private property, is 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, or is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance.

Section 6.04 **Offense**

A. A person commits an offense if the person maintains a public nuisance described by Section 6.03 of this Chapter.

B. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed Two Hundred and No/100 Dollars ($200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

C. The court shall order abatement and removal of the nuisance.

Section 6.05 **Exceptions**

The following vehicles or parts thereof are excepted from the provisions of this ordinance:

A. A vehicle or vehicle part which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

B. A vehicle or vehicle part which is 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 or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are:

1. maintained in an orderly manner,

2. do not constitute a health hazard, and

3. are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

C. An unlicensed, operable or inoperable antique or special interest vehicle or part thereof stored by a motor vehicle collector on the collector's property, provided that the vehicle or part and the outdoor storage area, if any, are maintained in such a manner

that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Section 6.06 Procedure for Disposition of Junked and Nuisance Vehicles

The procedure for the abatement and removal of a junked or nuisance vehicle or part thereof, as a public nuisance, from private property, public property, or public right-of-way shall be as follows:

A. After a determination is made by the City Manager appointed Department Director or his designee that a particular vehicle is a junked or nuisance vehicle or after an order issued by the municipal court pursuant to Section 6.04(C), there shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration of said ten (10) day period, such notice to be personally delivered or sent by certified mail with a five (5) day return requested to:

1. the last known registered owner of the junked or nuisance vehicle;

2. all lien holders of record; and

3. the owner or occupant of:

   a. the private premises whereupon such public nuisance exists; or

   b. if the public nuisance vehicle is located on a public right-of-way, the property adjacent to the public right-of-way whereupon such public nuisance exists.

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 United States Post Office,

official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

B. After a vehicle has been removed, it shall not be reconstructed or made operable.

C. There shall be a public hearing prior to the removal of the vehicle or part thereof as a public nuisance if such hearing is requested by the last known registered owner of the motor vehicle, or by any lien holder of record, or 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 said vehicle is located, or by the Police Department. The public hearing shall be held before the City Manager designated Department Director, or his or her designee, not earlier than the 11th day after the date of the service of notice to abate the nuisance. At the hearing, the vehicle which is the subject of the junked or nuisance vehicle hearing is presumed, unless demonstrated otherwise by the owner, to be inoperable. Any resolution or order requiring the removal of a junked or nuisance vehicle or part thereof must include the vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance. A Judge of the Municipal Court of the City of Arlington may issue necessary orders to enforce the procedures for the abatement and removal of a public nuisance under this Article.

D. The relocation of a junked or nuisance vehicle that is a public nuisance to another location within the City, after a proceeding for the abatement and removal of such junked vehicle has commenced, has no effect on the proceeding if the junked or nuisance vehicle constitutes a public nuisance at the new location.

E. Notice must be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal identifying the vehicle or part thereof. Said Department shall cancel the certificate of title issued for the vehicle immediately on receipt of such notice.

F. The administration of the procedures herein shall be by the Community Services Department and Police Department of the City of Arlington, Texas, and by

such other regularly salaried, full-time City employees as may be from time-to-time granted authority by the City's governing body to enforce this ordinance, except that the removal of junked vehicles or parts thereof from property may be by any duly authorized person.

G. A citation may be issued and a complaint may be filed in the Municipal Court of the City of Arlington for the violation of maintaining a public nuisance, if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided in Subsections (A) and (B).

Section 6.07 <u>Disposal of Junked or Nuisance Vehicles</u>

A junked or nuisance vehicle or part thereof may be disposed of by removal to a scrapyard, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.

Section 6.08 <u>Authority to Enforce</u>

Any peace officer, Code Enforcement officer or other regularly salaried, full-time City employee authorized to enforce this ordinance, may enter the public areas of any building or premises, not a private residence or dwelling, structure or completely enclosed structure on private property, at all reasonable times whenever necessary in the performance of his duties to inspect and investigate for violations of any law, or to enforce any law. The authority to inspect shall include but not be limited to the authority to examine vehicles or parts thereof, obtain information as to identity of vehicles and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance. If such building or premises be occupied and involved in conducting business, he shall first present proper credentials and demand entry, unless otherwise permitted by law. If such entry is refused, or, if no owner or other person having charge or control of the building or premises can be located, he shall have recourse to every remedy provided by law to secure entry.

Section 6.09 Effect of Act on Other Laws

Nothing in this Article shall affect laws that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or laws that establish procedures for taking possession of abandoned motor vehicles.

ARTICLE VII

PARKING OF VEHICLES

Section 7.01 Parking Vehicles

A. Except as otherwise provided in this Section, it shall be unlawful for any person to park or to cause, suffer, maintain or allow to be parked upon any property under his control any automobile, truck, bus, motorcycle, motorhome, camper, trailer, truck tractor, road tractor, semi-trailer, pole trailer, boat or mobile home, on any yard including driveways:

(1) in front of,
(2) on the side yard of, or
(3) on the rear yard of

any single family residence, duplex or townhouse, or upon any property zoned "R", "R-1", "T" or "D".

B. Exceptions: 7.01(A) shall not apply: to automobiles, trucks, and vans, which have a carrying capacity of four thousand (4,000) pounds or less; to motorhomes, campers, and trailers, which have a length of less than thirty (30) feet; and to motorcycles and boats:

(1) when parked upon an all-weather parking facility; or

(2) when parked on any side yard when such vehicle is screened from view from any public street by a screening fence; or

(3) when parked on any rear yard which is not adjacent to one or more street corners; or

(4) when parked on any rear yard when such vehicle is screened from view from any public street by a screening fence.

Section 7.02 <u>Public Parking of Vehicle for Sale Prohibited</u>

A. <u>Vehicle for Sale Parked in Unauthorized Location Declared a Public Nuisance</u>. A Vehicle for Sale, when parked in an unauthorized location where it is visible from a public place or public right-of-way:

1. is detrimental to the safety and welfare of the general public,

2. tends to attract attention of passers-by on roadways where slowing traffic presents a hazard to motorists and to pedestrians,

3. leads drivers to enter onto the premises where the Vehicle for Sale is parked even when no legitimate paved access exists,

4. invites customer inspection in unprotected settings where inspection may be unsafe near moving traffic lanes,

5. contributes to a proliferation of vehicles parked in areas not generally designed for parking, such as vacant lots and other unpaved areas,

6. entices further misuse of an unauthorized location, paved or unpaved, for vehicle sales by other persons with Vehicles for Sale,

7. produces deleterious effects on the exercise of lawful vehicle sales at legitimate, authorized locations,

8. produces urban blight which is adverse to the maintenance and continuing development of the City, and

such Vehicles for Sale are therefore declared to be a public nuisance.

B. Offense

1. A person commits an offense when the person maintains a public nuisance described in Section 7.02(A):

   a. by parking the Vehicle for Sale at the unauthorized location, or

   b. by having ownership, care, custody or control of the unauthorized location where the Vehicle for Sale is parked.

2. An offense under this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

3. The Court shall order abatement and removal of the nuisance on conviction.

4. In a prosecution under this section, it is presumed that the registered owner of the Vehicle for Sale is the person who parked the Vehicle for Sale at the time and place the offense occurred.

C. Exemptions. The provisions of this ordinance do not apply to a Vehicle for Sale parked in a lawful manner in the course of its normal use as a means of transportation:

1. upon the premises of or immediately adjacent to a single-family residence if the vehicle is registered to, owned or operated by the owner or legal occupant of the single-family residence; or

2. in a permitted parking space at a multi-family housing facility if the vehicle is registered to, owned by or operated by the owner or legal occupant of a unit in the multi-family housing facility; or

3. in the parking area of a commercial establishment or place of business when the driver is then and there employed and working or is then and there transacting business at the establishment or business.

ARTICLE VIII

GRAFFITI

Section 8.01 Legislative Findings

The City of Arlington recognizes that graffiti that is visible from a public place, public right-of-way, or the property of others is detrimental to the safety and welfare of the public, invites vandalism, additional graffiti, and other criminal activities, tends to reduce the value of private property, and produces property blight adverse to the maintenance and continuing development of the City of Arlington. The City of Arlington desires to prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The City Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the city.

The City Council intends, through the adoption of this Article, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Article to conflict with any existing anti-graffiti state laws.

Section 8.02 Graffiti Removal Requirement, Offense

A. It shall be the duty of the owner of any tangible property to remove or cause to be removed all graffiti from the property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists.

B. Failure to remove or cause to be removed graffiti within forty-eight (48) hours after notice to do so by the City shall constitute an offense.

Section 8.03 Notice and Abatement by City

A. Notice. Whenever graffiti is found to exist, the owner shall be given notice to comply with Section 8.02 above. The notice shall contain a statement explaining the owner's right to request a hearing for the purpose of determining whether the conditions constitute a public nuisance under this Article. The notice shall be given by letter addressed and delivered to the owner either by mailing it to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located or by personal delivery. If notice cannot be made in such manner, the notice shall be given by publication at least once, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings. If the notice is mailed to the property owner in accordance with this section and the United States Postal Service returns the notice as "refused or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date mailed. If notice is made by publication, the publication shall be in a newspaper of general circulation in the community.

B. Abatement. After the expiration of seven (7) days from the date the notice required in Subsection (A) above has been mailed and delivered or personally delivered, or published or posted, and where the Administrator has not received a request for a hearing, the City of Arlington may enter upon the property as allowed by law and do or cause to be done any work necessary to bring such premises into compliance with this Article.

C. Hearing.

1. If, within seven (7) days after the date the notice regarding the removal of graffiti is sent, the owner files with the Administrator a written request for a hearing, the Administrator will

schedule a hearing within five (5) days after the date the request is filed. The request for hearing must contain an address and a phone number where notice of hearing can be given. At the hearing, the owner and the City may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the Administrator and subject to approval by the City Attorney.

2. The determination of the Hearing Officer after the hearing shall be final and not appealable. If, after the hearing, the Hearing Officer finds that conditions constituting a nuisance hereunder exist, the Hearing Officer shall give written notice in an abatement order that, unless the graffiti is removed within two (2) days from the date of the order, the City may enter upon the property and do or cause to be done any work necessary to bring such premises into compliance with this Article.

Section 8.04 <u>Assessment of Expenses</u>

The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%), or such rate allowed by law, from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements. The procedures set out herein are civil in nature and shall

in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

Section 8.05 Responsibility of Parent or Guardian for Graffiti Created By Minor

A parent or guardian of a minor commits an offense if he or she intentionally, knowingly, recklessly or with criminal negligence permits the minor to create graffiti on tangible property in the City without the property owner's consent.

Section 8.06 Possession of Aerosol Paint by Minor

A. Possessing Aerosol Paint. It shall be unlawful for a minor to possess aerosol paint of any sort or character.

B. Affirmative Defense. It shall be an affirmative defense to a violation of Section 8.06(A) that, at the time of possession, the minor was accompanied or supervised by a parent or guardian, a teacher in connection with a bona fide school project, a supervisor during the minor's regular employment, or that the minor possessed the aerosol paint on the property on which he or she lives or that the possession occurred as part of an organized event sponsored or supervised by the City, a school, a church or some other officially recognized entity.

Section 8.07 Enforcement

A. Enforcement. It shall be the duty of the Director of Community Services, the Chief of Police, the Fire Chief, the Director of Public Works and Transportation, the Director of Community Development and Planning, and their designees, to enforce this ordinance. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed Five Hundred and No/100 Dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

B. Affirmative Defenses. It is an affirmative defense to prosecution under this Article that no notice was served on the property owner, in compliance with Section 8.03.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 5th day of June, 2007, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 19th day of June, 2007, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

BARBARA G. HEPTIG, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

PUBLISHED ST 12-24-07 & 12-31-07

Ordinance No. 07-098

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions and Prohibitions, Section 1.02, Definitions, by the amendment of the definition of Junked Vehicle; Article IV, Abatement, Section 4.04, Abatement Procedure, Subsection (D), relative to specifying fees; Article VI, Junked and Nuisance Vehicles, Section 6.06, Procedure for Disposition of Junked and Nuisance Vehicles, Subsection (A), relative to specifying fees; Article VIII, Graffiti, Section 8.04, Assessment of Expenses, relative to specifying fees; providing for a fine of up to $2000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions and Prohibitions, **Section 1.02**, Definitions, so that the definition of "Junked Vehicle" shall be and read as follows:

Junked Vehicle - a vehicle that:

1. is self-propelled and

   a. does not have lawfully attached to it an unexpired license plate, and

   b. does not have lawfully attached to it a valid motor vehicle inspection certificate; and

2. is:

   a. wrecked, dismantled or partially dismantled, or discarded, or

   b. substantially disfigured, damaged, or disintegrated, or

   c. ruined, destroyed or demolished; or

d. inoperable and has remained inoperable for more than:

(1) seventy-two (72) consecutive hours, if the vehicle is on public property;

(2) thirty (30) consecutive days if the vehicle is on private property.

Further, **Article IV**, Abatement, **Section 4.04**, Abatement Procedure, **Subsection (D)**, is hereby amended so that said subsection shall be and read as follows:

D. The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper and the Administrative Fee as set by resolution of City Council for City administrative expenses, shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements as particularly specified in the Texas Health and Safety Code §342.007. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

Further, **Article VI**, Junked and Nuisance Vehicles, **Section 6.06**, Procedure for Disposition of Junked and Nuisance Vehicles, **Subsection (A),** is hereby amended so that said subsection shall be and read as follows:

A. After a determination is made by the City Manager appointed Department Director or his designee that a particular vehicle is a junked or nuisance vehicle or after an order issued by the municipal court pursuant to Section 6.04(C), there shall be furnished not less than ten (10) days notice, stating the nature of the public nuisance on private property and that it must be removed and abated not later than the 10th day after the date on which the notice was personally delivered or mailed and further that a request for a hearing must be made before expiration

of said ten (10) day period, such notice to be personally delivered, delivered via the United States Postal Services with a signature confirmation, or sent by certified mail with a five (5) day return requested to:

1. the last known registered owner of the junked or nuisance vehicle;

2. all lien holders of record; and

3. the owner or occupant of:

    a. the private premises whereupon such public nuisance exists; or

    b. if the public nuisance vehicle is located on a public right-of-way, the property adjacent to the public right-of-way whereupon such public nuisance exists.

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 United States Post Office, official action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of such return.

Further, **Article VIII**, Graffiti, **Section 8.04**, Assessment of Expenses, is hereby amended so that said section shall be and read as follows:

Section 8.04 Assessment of Expenses

The expense incurred in correcting the condition of such property, including the cost of delivering and posting notice and of publishing notice in the newspaper and the Administrative Fee as set by resolution of City Council for City administrative expenses shall be initially paid by the City of Arlington and charged to the owner of such property, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%), or such rate allowed by law, from the date the City of Arlington incurs the expense. The lien statement shall be filed by the Administrator, and shall state the name of the owner, if known, and the legal description of the property. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City of Arlington. The statement of expense filed with the County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements. The procedures set out herein are civil in nature and shall in no way

restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the

provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 4th day of December, 2007, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 18th day of December, 2007, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

KAREN B. ARMENDARIZ, Acting City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

Ordinance No. 09-064

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article VIII, Graffiti, by the amendment of Section 8.02, Graffiti Removal Requirement, Offense; Section 8.03, including the title of Section 8.03; Section 8.04, Assessment of Expenses; and Section 8.07, Enforcement, Subsection (B); relative to amending graffiti provisions to conform to new state law requirements including offer to remove graffiti free of charge and notice requirements; providing for a fine of up to $500 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability, governmental immunity, injunctions, publication and becoming effective ten days after first publication

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article VIII**, Graffiti, Section 8.02, Graffiti Removal Requirement, Offense, so that said section shall be and read as follows:

Section 8.02 Graffiti Removal Requirement, Offense

A. It shall be the duty of the owner of any tangible property to remove or cause to be removed all graffiti from the property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists.

B. A property owner commits an offense by failing to remove or cause to be removed graffiti from the owner's property within fifteen (15) days after receipt of notice from the City to do so.

C. It is an exception from the requirement that an owner of property remove or cause to be removed graffiti from the property if the graffiti is located on transportation infrastructure and the removal of the graffiti would create a hazard for the person performing the removal.

Further, **Article VIII, Section 8.03**, is hereby amended by the amendment of the title from Notice and Abatement by City to Offer, Notice and Abatement, so that the **title** and section shall be and read as follows:

Section 8.03 Offer, Notice and Abatement

A. Offer. Whenever graffiti is found to exist, the City may offer to remove the graffiti from the owner's property free of charge.

1. The City shall offer to remove the graffiti free of charge to the property owner by personal delivery of the written offer to the owner, by posting the offer on or near the front door on the property to which the offer relates, by posting the offer on a placard attached to a stake driven into the ground on the property to which the offer relates or by sending an offer letter by first class mail that is addressed to the owner at the owner's address as contained in the records of the appraisal district in which the property is located. If the City's offer cannot be made in such manner, the offer shall be made by publication at least once in a newspaper of general circulation in Tarrant County or the City. If the offer is made by personal delivery, the date of the offer is the date of delivery. If the offer is made by posting on or near the front door or by posting on a placard, the date of the offer is the date the offer was posted. If the offer is made by mail and the United States Postal Service returns the offer as "refused" or "unclaimed", the validity of the offer is not affected. If the offer is made by mail, the date of the offer is deemed to be three (3) days after the date mailed. If the offer is made by publication, the date of the offer is the date of publication.

2. The owner has three (3) days from the date of the offer to accept or refuse the City's offer. The owner may accept the City's offer by timely filing written acceptance with the Administrator on the form prescribed by the Administrator. Failure of the owner to timely file with the Administrator written acceptance of the City's offer shall constitute a refusal of the City's offer. If the owner accepts the City's offer, the City may enter upon the property as allowed by law and do or cause to be done any work necessary to bring the property into compliance with this Article. If the owner refuses the City's offer by filing a written refusal or by failing to timely file with the Administrator written acceptance of the City's offer, the owner shall be given notice to comply with Section 8.02.

B. Notice. After offer by the City to remove the graffiti for free and refusal by the property owner of the City's offer, the owner shall be given notice to comply with Section 8.02 and to remove or cause to be removed the graffiti within fifteen (15) days from receipt of the notice. The notice shall contain a statement explaining the owner's right to request a hearing for the purpose of determining whether the conditions constitute a public nuisance under this Article. The notice shall be given personally to the owner in writing or by letter sent by certified mail, return receipt requested, addressed to the property owner at the property owner's address

as contained in the records of the appraisal district in which the property is located. If notice cannot be given in such manner, the notice shall be given by publication at least once in a newspaper of general circulation in Tarrant County or the City, by posting the notice on or near the front door of each building on the property to which the notice relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates. For notice given by personal delivery, the notice is deemed received on the date of delivery. For notice given by posting on or near the front door or by posting on a placard, the notice is deemed received the date the notice was posted. If notice is given by mail and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected. If the notice is given by mail, the notice is deemed received three (3) days after the date mailed. If the notice is made by publication, the notice is deemed received on the date of publication.

C. Abatement. After the expiration of fifteen (15) days from the date the owner received the notice and where the Administrator has not received a timely request for a hearing, the City of Arlington may enter upon the property as allowed by law and do or cause to be done any work necessary to bring such premises into compliance with this Article.

D. Hearing.

1. If, within fifteen (15) days after the date the owner received the notice, the owner files with the Administrator a written request for a hearing, the Administrator will schedule a hearing within five (5) days after the date the request is filed unless the parties agree to a certain date beyond the five (5) days. The owner's request for hearing must contain an address and a phone number where notice of hearing can be given. At the hearing, the owner and the City may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the Administrator and subject to approval by the City Attorney.

2. The determination of the Hearing Officer after the hearing shall be final and not appealable. If, after the hearing, the Hearing Officer finds that conditions constituting a nuisance hereunder exist, the Hearing Officer shall give written notice in an abatement order that, unless the graffiti is removed within fifteen (15) days from the date the owner receives the notice given pursuant to Section 8.03(B) or within two (2) days from the date of the abatement order, whichever is later, the City may enter upon the property and do or cause to be done any work necessary to bring such premises into compliance with this Article.

Further, **Article VIII, Section 8.04**, Assessment of Expenses, is hereby amended so that said section shall be and read as follows:

Section 8.04 **Assessment of Expenses**

The expense incurred in correcting the condition of such property, including the cost of delivering, posting notice, publishing notice in the newspaper, and the City's administrative expenses, shall be initially paid by the City of Arlington and charged to the owner of such property as fees in an amount established by City Council Resolution, and the City of Arlington may cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. To obtain a lien against the property for expenses incurred in correcting the condition of graffiti on the property, the Administrator shall file a statement of expenses with the County Clerk of Tarrant County. The statement of expenses shall contain the name of the property owner, if known, the legal description of the property, and the amount of expenses incurred in correcting the condition on the property. On filing with the County Clerk of Tarrant County a statement of the expense incurred in correcting the condition on the property, the City of Arlington shall have a privileged lien on such property, subordinate only to any previously recorded lien, and the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed. Such amount shall bear interest at the rate of ten percent (10%) or such rate allowed by law from the date the City of Arlington incurs the expenses. The statement of expenses filed with the Tarrant County Clerk or a certified copy thereof, shall be prima facie proof of the amount expended by the City in doing the work or making the improvements. The procedures set out herein are civil in nature and shall in no way restrict or prohibit the prosecution of criminal charges under the provisions of this Chapter.

Further, **Article VIII, Section 8.07**, Enforcement, Subsection (B), is hereby amended so that said subsection shall be and read as follows:

B. Affirmative Defenses. It is an affirmative defense to prosecution under this Article that notice was not given to the property owner in compliance with this Article.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars ($500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 22nd day of September, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 13th day of October, 2009, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

KAREN BARLAR, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY _____

Ordinance No. 15-013

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions and Prohibitions, by the amendment of Section 1.02, Definitions, relative to the amendment of the definition of "Junked Vehicle"; providing for a fine of up to $200 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability, governmental immunity, injunctions, publication and becoming effective ten days after first publication

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions and Prohibitions, Section 1.02, Definitions, so that the definition of "Junked Vehicle" shall be and read as follows:

Junked Vehicle - a vehicle that:

1. is self-propelled; and

2. displays an expired license plate or does not display any license plate; and

3. is:

    a. wrecked, dismantled or partially dismantled, or discarded, or

    b. inoperable and has remained inoperable for more than:

        i. seventy-two (72) consecutive hours, if the vehicle is on public property;

        ii. thirty (30) consecutive days if the vehicle is on private property.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Hundred and No/100 Dollars ($200) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 24th day of February, 2015, at a regular meeting of the City Council of the City of

Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 3rd day of March, 2015, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY

Ordinance No. 16-021

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article II, Nuisances Enumerated, Section 2.03, Other Nuisances Enumerated, by the addition of Subsection (N); and the amendment of Article V, Nuisance Personal Property, Section 5.01, Declaring Certain Property a Nuisance and Authorizing Impounding, Subsection (B); to outline abatement procedures; providing for a fine of up to $500 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date

WHEREAS, the increase in the number of persons or entities desiring to collect clothing and household products for charitable purposes has led to the proliferation of donation boxes in various areas of the City; and

WHEREAS, the inability of landowners to accurately identify the owners of said donation boxes has resulted in decreased accountability on the part of donation box owners; and

WHEREAS, the failure to properly empty and clean donation boxes has resulted in an unsightly and littered appearance near said donation boxes; and

WHEREAS, City Council finds that regulating the placement and use of donation boxes is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, and the protection of landowners and residents of the City of Arlington; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article II, Nuisances Enumerated, **Section 2.03**, Other Nuisances Enumerated, by the addition of Subsection (N), Noncompliant Donation Boxes, which shall read as follows:

N. Noncompliant Donation Boxes.

1. The placing or maintaining of any donation box that does not comply with the conditions and requirements of this Chapter and the "Donation Boxes" Chapter of the Code of the City of Arlington, Texas, 1987, as amended.

2. Noncompliant donation boxes are subject to enforcement by criminal citations; administrative adjudication under Article IX of the "Municipal

Court" Chapter of the Code of the City of Arlington, Texas, 1987, as amended; civil court proceedings (including injunctive relief); and the abatement enforcement provisions of this Chapter.

Further, Article V, Nuisance Personal Property, **Section 5.01**, Declaring Certain Property a Nuisance and Authorizing Impounding, is hereby amended by the amendment of Subsection (B) so that said subsection shall be and read as follows:

B. Any personal property or obstruction placed, left standing, erected or lying on private property without the consent of the owner, occupant or person otherwise in charge of the premises on which same is located is hereby declared to be a nuisance. A noncompliant donation box as defined by Subsection 2.03(N), as amended, is hereby declared to be a nuisance.

4.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred Dollars and No Cents ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

5.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

6.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

7.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

8.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

9.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

10.

This ordinance shall become effective ten (10) days after first publication.

PRESENTED AND GIVEN FIRST READING on the 12th day of April, 2016, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 26th day of April, 2016, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

W. JEFF WILLIAMS, Mayor

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY

Ordinance No. 17-058

An ordinance amending the "Nuisance" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions and Prohibitions, Section 1.02, Definitions, by the amendment of the definition of Dilapidated Fence; providing for a fine of up to $2,000 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Nuisance"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, Definitions and Prohibitions, **Section 1.02**, Definitions, by the amendment of the definition of Dilapidated Fence, so that hereafter said definition shall be and read as follows:

Dilapidated Fence - any fence in a dilapidated, improper state of repair that causes a safety or health concern. It includes any:

1. fencing that by its age or deteriorating condition lists, leans, buckles or is broken or has exposed pieces projecting, protruding or laying in a manner which could fall or be hazardous to persons walking or driving along public property including street or right-of-way or public easements;

2. fencing that by improper position on or near the ground is situated in such a manner as to offer harborage to vermin;

3. fencing that is damaged by animals or by other means such that the fence condition is unsafe and deleterious to the livability of the neighborhood;

4. fencing that has any portion of its pickets or structural components either damaged, missing or rotted;

5. fencing with support posts, cross members, pickets, braces, bolts, nails, supporting frame, or fastenings in a state of disrepair due to deterioration, infestation by insects or other vermin, rot, rust, or loosening;

6. fencing with broken or severely bent metal posts or torn, cut, or ripped metal fencing;

7. fencing with loose bricks, stones, mortar, masonry, or similar material; or

8. fencing that is braced by guy wires, braces, or any other material that may be visible from a public street, right-of-way, alleyway, or property or easement controlled by the City.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be

published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication.

PRESENTED AND GIVEN FIRST READING on the 5th day of September, 2017, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 26th day of September, 2017, by a vote of 9 ayes and 0 nays at a special meeting of the City Council of the City of Arlington, Texas.

W. JEFF WILLIAMS, Mayor

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY