

City of Prescott Ordinance

Ordinance No. 10

An ordinance for the towing and disposition of abandon or discarded vehicles, controlling of vehicular parking, and the storing of personal property, junk or garbage within the City of Prescott.

The City of Prescott does ordain as follows:

Section 1. Definitions. The following definitions are applicable to this ordinance:

- (1) "Abandoned Vehicle" means any vehicle that has been deserted or relinquished without claim or ownership. A vehicle shall be considered abandoned if it has remained in the same place for more than twenty-four hours and one or more of the following conditions apply:
 - (a) The vehicle does not have a legally registered license plate affixed to the vehicle, or
 - (b) The vehicle appears to be inoperative or disabled, or
 - (c) The vehicle appears to be wrecked, partially dismantled, or junked.
- (2) "Storage" means the holding of a vehicle with the attendant fees for such holding at an appropriate facility.
- (3) "Towing" means the taking possession of a vehicle and removing it to a storage facility at the request of a City officer or employee.
- (4) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway, and includes any vehicle hulk or component thereof.
- (5) "Discarded Vehicle" means any vehicle or part thereof which is in one or more of the following conditions:
 - (a) Inoperative.
 - (b) Wrecked.
 - (c) Dismantled.
 - (d) Partially dismantled.
 - (e) Junked.

Discarded vehicles also include major parts of vehicles including but not limited to bodies, engines, transmissions, and rear ends.

- (6) "Junk or Garbage" means any personal property that has been stored without protection from the elements of nature and within public view to the extent that such property appears no longer useful, or any material or property that is objectionable due to odor or sight and appears to be an attraction for insects or rodents, or threat to public health.

- (7) "Traffic Lane" means the area of the roadway that is commonly used for the movement of vehicular traffic.
- (8) "Roadway" means all the paved or unpaved portions of City streets or designated streets to include the traffic lane and a five-foot shoulder extending outward from each side of the paved portion of the roadway.
- (9) "Public Right of Way" means all property that is said to be owned by the City of Prescott as recorded in the County Assessor's office and all areas within the City that have been improved with a hardened and permanent surface such as asphalt, pavement, concrete or other like material.

Section 2. Declaration of Public Nuisance.

- (1) The open accumulation of garbage or junk and the storage of discarded vehicles can create a condition tending to reduce the value of private property, to promote blight, deterioration and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare of the public. Therefore the presence of a discarded vehicle, garbage or junk on private or public property is hereby declared a public nuisance, and that the City may abate the nuisance in accordance with the provisions of this ordinance.

Section 3 Prohibited Actions.

- (1) It shall be unlawful to store, or permit the storing of a abandoned or discarded vehicle, garbage, or junk upon any private property within the City unless the vehicle, garbage, or junk is completely enclosed within a building or screened to prevent visibility from the street or other public or private property by an approved fence of solid material or by natural foliage that screens the area all year and the vehicle, garbage, or junk is not offensive to the public by odor or the attraction of rodents or insects.
- (2) No discarded or abandoned vehicle shall be parked in the roadway or upon City owned property or a public right of way
- (3) No vehicle in operating condition shall be parked in the traffic lane on upon City owned property except for an emergency or for temporarily loading or unloading.
- (4) No person shall store or permit to be stored on a roadway or public right of way, without permission of the Council, a vehicle, personal property, junk or garbage.

Section 4 Towing of Vehicles.

- (1) Any vehicle found within the City in violation of Section 3 of this ordinance may be towed by a private towing company designated by the City at the expense of the owner of the vehicle or person in possession of the vehicle at the time.

- (2) Prior to towing a vehicle pursuant to subsection one above, the City shall notify the owner or person in possession of the vehicle by affixing a notice to the vehicle. The notice must be clearly visible and state that the person shall remove the vehicle within 30 days in accordance with this ordinance, and that the person may appeal the towing of the vehicle by notifying the City Council within the 30 day notice period. The notice shall state the date of notice and under what authority the notice was given.
- (3) The City shall also mail a notice by certified letter to the registered owner as listed by DMV. If the vehicle is not affixed with a registration plate, then a certified notice shall be sent to the nearest property owner.
- (4) If a private tow company takes possession of a vehicle pursuant to this ordinance, the tow company may pursue ownership of the vehicle as outlined under state law.

Section 5 Nuisance Abatement

- (1) The City or a private company the City designates may abate any nuisance in violation of Section 3 of this ordinance. The cost of the abatement shall be at the expense of the property owner or person in charge of the property.
- (2) Prior to abatement of the nuisance, the City shall notify the property owner or resident of the property by sending a notice to the address of the property. If the property owner's address is different as recorded with the County Assessor's office, a notice shall also be sent to the recorded address.
- (3) The notice shall state that the nuisance must be abated within 30 days in accordance with this ordinance, and that the person may appeal the abatement by notifying the City Council within the 30-day notice period. The notice shall state the date of notice and under what authority the notice was given.

Section 6 Hearing to Contest the Validity of Vehicle Tow or Nuisance Abatement.

- (1) After a person receives notice of a tow or nuisance abatement or within five days after a vehicle has been towed or a nuisance as been abated pursuant to Sections 4 and 5 of this ordinance, a person may request a hearing to contest the validity of the tow or abatement.
- (2) The request can be made in person to the Council or in writing. The written notice must be post marked to establish that the request was applied for in a timely manner pursuant to this ordinance. The request must clearly state the reasons upon which the person believes the tow or nuisance abatement is invalid.
- (3) If a hearing is requested, a quorum of the City Council shall assemble and conduct an administrative hearing within 72 hours excluding weekends or holidays. The Mayor shall preside and the Council shall decide the hearing based on the evidence presented. The person requesting the hearing may present evidence and witnesses.
- (4) If the Council finds that the tow or nuisance abatement is invalid or not justified, the City shall order the vehicle, if still held, to be immediately released. If the vehicle has been ordered to be towed or the nuisance abated, the City shall order the vehicle

not towed or that the nuisance is not abated. The City shall pay or reimburse the person for all towing, storage, or abatement fees.

- (5) If the Council found that a vehicle was towed without justification pursuant to Section 4, the person requesting the hearing must retrieve the vehicle from the tow company within 24 hours. If the person does not retrieve the vehicle pursuant to this subsection, the City shall not be responsible for reimbursement as outlined in subsection 4 above.
- (6) If Council finds that the tow or nuisance abatement is valid, the towing of the vehicle or nuisance abatement shall continue under the provisions of this ordinance.

First reading: June 4, 2002.


Second reading: June 4, 2002.

City Council passed and authorized the Mayor to sign on June 4, 2002.



Kevin Miller/Mayor

Attested:



Ria Bradley/City Recorder