

CITY OF DE SMET
ORDINANCE NO. VIII-9

ABANDONED, JUNKED, DISMANTLED, OR INOPERATIVE MOTOR VEHICLES

BE IT ORDAINED BY THE CITY OF DE SMET, COUNTY OF KINGSBURY, STATE OF SOUTH DAKOTA:

Section I. DEFINITIONS –

- (1) “Abandoned motor vehicle” means any motor vehicle, as defined in this section, which is left unattended on any public street, alley, public place or parking lot within the city for a longer period than twenty-four hours without notifying the chief of police and making arrangements for the parking of such motor vehicle.
- (2) “Antique/collectible vehicle” means any motor vehicle having special value because of its age or characteristics and does not meet the junked motor vehicle definition.
- (3) “City” means the city of De Smet.
- (4) “Inoperable vehicle” means any motor vehicle, as herein defined, which has not physically moved twenty-five feet in a two-month period or which is not in operating condition due to damage or removal of inoperability of one or more tires and wheels, damage or removal or inoperability of the engine or other essential parts required for operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.
- (5) “Junked motor vehicle” means any motor vehicle which does not have lawfully affixed thereto a valid state license plate or plates, or the condition of which is wrecked, dismantled, partially dismantled, inoperable or discarded.
- (6) “Motor vehicle” means any vehicle which is designed to travel along, or on the ground or water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, trailers, boats and farm equipment.
- (7) “Person” means any person, firm, partnership, association, corporation, company or organization of any kind.
- (8) “Private property” means any real property within the city, which is privately owned, and which is not public property as defined in this section.
- (9) “Public property” means any street, alley or highway, or boulevard which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.

Section II. EXCEPTIONS –

- a. The presence of an abandoned, wrecked, dismantled, inoperable, junked, or partially dismantled motor vehicle or parts thereof on private or public property is a public nuisance, which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any motor vehicle fully enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city.
- b. A motor vehicle in operable condition, although not legally licensed, specifically adopted or designed for operation on drag strips or raceways, may be kept on private property if kept in a fully enclosed structure during non-racing seasons.
- c. Storing, parking or leaving dismantled or other such motor vehicles on public property is prohibited. No person shall park, store, leave or permit the parking, storing or leaving of any abandoned, wrecked, dismantled, inoperable, junked or partially dismantled motor vehicle of any kind, whether attended to or not, upon any public property or right-of-way within the city.

Section III. ENFORCEMENT –

1. Administrative proceedings.
 - a. If a nuisance exists, a notice of violation shall be issued to the offender, to the concerned property owner and to the person in possession of the property whereon the offense was committed, directing abatement.
 - b. Notice may be served upon the offender, the concerned property owner and the person in possession of the property whereon the offense was committed by personal service, by registered mail, or by posting notice in a conspicuous place within the City limits of the City of De Smet, South Dakota, and by publication for a period of one week in the legal newspaper of the City of De Smet.
 - c. Within 7 days after completion of the notice hereinabove mentioned in subparagraph b, an appeal may be filed by the offender, the concerned property owner or the person in possession of the property whereon the offense was committed within the City Commission. Within 15 days after filing, appeal shall be heard before the City Commission. All persons who fail to protest shall be deemed to have waived all objections.
 - d. Abatement shall be accomplished within 7 days after notification of the decision of the City Commission, unless the offender, concerned property owner or the person in possession of the property whereon the offense was committed can show cause why more time is needed. Notification of the City Commission shall be mailed by registered or certified mail.
 - e. If the abatement is not completed within the time hereinabove mentioned in subparagraph d, the City shall abate the nuisance and file an account with the City Commission, which account shall specify the sum expended in abating said nuisance.
 - f. At least seven (7) days after filing of the account hereinabove mentioned in subparagraph e, the City Commission shall hold a hearing. Notice announcing the time of the City Commission meeting shall be mailed by registered or certified mail to the concerned property owner, to the person in possession and to the offender at least seven (7) days prior to said hearing.
 - g. The City Commission shall hear the matter and of the account is accepted, the amount thereof shall become a lien upon the property whereon the offense was committed.
2. Penalties – Violation of this ordinance is a misdemeanor punishable by a fine not to exceed \$200.00 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment. Each violation shall be a separate and distinct offense.

Gary Wolkow, Mayor

Passed First Reading:	September 11, 2002
Passed Second Reading:	October 8, 2002
Passed and Approved:	October 8, 2002
Published:	October 16, 2002

ATTEST:

Eileen Wolkow, City Finance Officer