

10-04-2000

ORDINANCE NO. 10-04-2000
TOWN OF HACKBERRY

AN ORDINANCE OF THE TOWN OF HACKBERRY, TEXAS REGULATING ABANDONED AND JUNKED MOTOR VEHICLES; PROVIDING DEFINITIONS; AUTHORIZING THE POLICE DEPARTMENT AND/OR CODE ENFORCEMENT OFFICE TO TAKE POSSESSION OF ABANDONED AND JUNKED MOTOR VEHICLES; PROVIDING NOTICE TO OWNERS AND LIENHOLDERS; PROVIDING FOR THE AUCTION OF ABANDONED MOTOR VEHICLES; PROVIDING THE DISPOSITION OF JUNKED OR ABANDONED MOTOR VEHICLES TO DEMOLISHER; DECLARING JUNKED VEHICLES TO BE PUBLIC NUISANCES; PROVIDING PROCEDURES FOR ABATING THE PUBLIC NUISANCE OF A JUNKED VEHICLE; PROVIDING AUTHORITY TO ENFORCE THE ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HACKBERRY, TEXAS:

SECTION 1. ABANDONED AND JUNK MOTOR VEHICLES

A. DEFINITIONS

- (a) **Abandoned Motor Vehicle** means a motor vehicle that:
 - (1) is inoperable and over five years old and is left unattended on public property for more than forty-eight hours;
 - (2) has remained illegally on public property for a period of more than forty-eight hours;
 - (3) has remained on private property without the consent of the owners or person in control of the property for more than forty-eight hours, or
 - (4) has been left unattended on the right-of-way of a designated county, state, or federal highway within the town for more than forty-eight hours.
- (b) **Antique Auto** means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least thirty-five years old.
- (c) **Chief of Police** means the head of the town police department or his authorized representative.
- (d) **Collector** means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.
- (e) **Demolisher** means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.
- (f) **Department** means the Police Department or the Code Enforcement Officer whichever is authorized to enforce this ordinance from time to time.
- (g) **Junked Vehicle** means a motor vehicle as defined in Article 6701d-11, Vernon's Texas Civil Statutes:

- (1) This is inoperative; and
- (2) that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperative for a continuous period of more than forty-five days.

- (h) **Motor Vehicle** means a motor vehicle subject to registration under the Certificate of Title Act, Article 6687-1, Vernon's Texas Civil Statutes.
- (i) **Special Interest Vehicle** means a motor vehicle of any age that has not been altered or modified from original manufacturer specifications and, because of its historic interest, is being preserved by hobbyists.
- (j) **Town** means the Town of Hackberry, Texas.

B. AUTHORITY TO TAKE POSSESSION OF ABANDONED MOTOR VEHICLES

- (a) The police department may take into custody an abandoned motor vehicle found on public or private property
- (b) The police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities to remove, preserve, and store an abandoned motor vehicle it takes into custody.

C. NOTIFICATION OF THE OWNERS AND LIENHOLDERS

- (a) In the event the police department takes into custody an abandoned motor vehicle, it shall notify not later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record pursuant to the Certificate of Title Act, Article 6687-1, Vernon's Texas Civil Statutes, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the twentieth day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction. The department shall also use a sticker to tag the vehicle as "abandoned".
- (b) If the identity of the registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice.

The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

- (c) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in the notice given under this section.
- (d) The police department or an agent of the police department that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for;
 - (1) A period of not more than ten days beginning on the date the department takes custody and continuing through the day the department mails notice as provided by this section; and
 - (2) A period beginning on the day after the day the department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

D. AUCTION OF ABANDONED MOTOR VEHICLES

- (a) If an abandoned motor vehicle has not been reclaimed as provided by Section B, the police department may sell the vehicle at a public auction.
- (b) Proper notice of the public auction shall be given. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a Certificate of Title.
- (c) From the proceeds of the sale of the abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing preserving, and storing the vehicle in custody, and all notice and publication costs incurred under Section C above. Any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lienholder for ninety days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage and all notice and publications costs that result from placing another abandoned vehicle in custody, if the proceeds from the sale of another abandoned motor vehicle are insufficient to meet these expenses and costs.

E. DISPOSAL TO DEMOLISHER

A person, firm, corporation, or unit of government on whose property or in whose possession is found any abandoned motor vehicle may apply to the State Department of Highways and Public Transportation for authority to sell, give away, or dispose of the vehicle to a demolisher.

F. JUNKED VEHICLES AS A PUBLIC NUISANCE

- (a) A junked vehicle that is located in a 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, and constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the town, is a public nuisance
- (b) A person commits an offense if that person maintains a public nuisance as determined under this section.
- (c) A person who commits an offense under this section is, on conviction, subject to a fine as set forth below. On conviction, the municipal court of the Town of Hackberry shall order the removal and abatement of the nuisance.

G. PROCEDURES FOR ABATING NUISANCES

- (a) The following procedures shall be used by the department or its representatives for the abatement and removal of a junked vehicle or a part of a junked vehicle as a public nuisance from private property, public property, or public right-of-way in the town.
- (b) For a nuisance on private property, the department shall give not less than ten days notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten days, and that a request for a hearing must be made before expiration of the ten day period. The notice must be mailed by certified mail with a five day return requested, to the last known registered owner of the junked motor vehicle, and the lienholder or record, and to the owner or occupant of the private premises on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return.
- (c) For a nuisance on public property, the department shall give not less than ten days notice, stating the nature of the public nuisance on public or on a public right-of-way, that the nuisance must be removed and abated within ten days, and that a request for a hearing must be made before expiration of the ten day period. The notice must be mailed by

certified mail with a five day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and to the owner or occupant of the public premises or to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last know registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return.

- (d) A vehicle that has been removed under the provisions of this section may not be reconstructed or made operable after it has been removed.
- (e) A public hearing shall be conducted by the municipal court of the Town of Hackberry, Texas, before the removal of the vehicle or vehicle part as a public nuisance is permitted. The hearing shall be held if requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located within ten days after service of notice to abate the nuisance. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. After hearing, if the court finds that the vehicle is a public nuisance as defined by this ordinance, the judge shall enter an order requiring the removal of the vehicle or vehicle part. Such order must include a description of the vehicle and correct identification number and license number of the vehicle if the information is available at the site.
- (f) Notice shall be given by the department to the State Department of Highways and Public Transportation not later than the fifth day after the date of removal. The notice must identify the vehicle or the vehicle part.
- (g) Procedures of this section shall not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means, including a custom car cover, provided that all means of screening must be adequately maintained so that a vehicle or vehicle part will not be open to ordinary public view.
- (h) The procedures of this section must be administered by regularly salaried employees of the Town of Hackberry, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.

H. DISPOSAL OF JUNKED VEHICLES

A junked vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher, or any suitable site operated by the town for processing as scrap or salvage.

I. AUTHORIT TO ENFORCE

Any member of the department of the Town of Hackberry authorized to administer the procedures authorized by this ordinance with regard to junked motor vehicles may enter private property for the purposes specified in these procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitute a nuisance. The municipal court of the Town of Hackberry may issue orders necessary to enforce such procedures.

J. RIGHT OF IMMEDIATE REMOVAL

This ordinance shall not affect any law authorizing the police department to cause the immediate removal, as an obstruction to traffic, of a vehicle left on public property or a public right-of-way.

SECTION 2.

All other ordinances of the Town of Hackberry in conflict with the provisions hereof are hereby repealed.

SECTION 3.

If any section, paragraph, sentence, clause, phrase, or provision of this ordinance shall be adjudged or held to be invalid, illegal, or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof, other than the part so decided to be illegal, invalid, or unconstitutional, and the provisions hereof are declared to be severable.

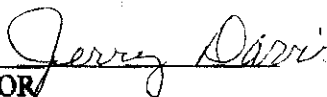
SECTION 4.

Any person, firm, or corporation maintaining any condition on property as defined in this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the Town of Hackberry, Texas, shall be subject to a fine not to exceed the sum of Two Thousand (\$2,000.00) Dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5

This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

APPROVED:


MAYOR

ATTEST:


TOWN SECRETARY