

CHAPTER 8 OFFENSES AND NUISANCES
----------------------------------

**ARTICLE 8.200 ABANDONED MOTOR VEHICLES**

ARTICLE 8.200 ABANDONED MOTOR VEHICLES
--

**Sec. 8.201 Definitions**

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

Junked Vehicle. Any vehicle that is self-propelled and:

- (1) Displays an expired license plate or does not display a license plate;
- (2) Is wrecked, dismantled or partially dismantled or discarded; or
- (3) Is inoperable and has remained inoperable for more than:
  - (A) Seventy-two (72) hours if the vehicle is on public property; or
  - (B) Thirty (30) consecutive days if the vehicle is on private property.

Motor Vehicle Collector. A person who:

- (1) Owns one or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special Interest Vehicle. A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historical interest, is being preserved by a hobbyist.

**State law reference**—Definition and applicability, V.T.C.A., Transportation Code section 683.071.

ARTICLE 8.200 ABANDONED MOTOR VEHICLES
--

**Sec. 8.202 Declaration of Junked Vehicle as a Public Nuisance and Offense**

(a) A junked vehicle, including a part of 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, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and produces urban blight adverse to the maintenance and continuing development of the city, and is a public nuisance.

- (b) A person commits an offense when he or she maintains a junked vehicle or vehicle part in a manner declared a public nuisance.
- (c) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.00.
- (d) The court shall order abatement and removal of the nuisance on conviction.

**State law references**—Junk vehicle declared to be public nuisance, V.T.C.A., Transportation Code, section 683.072, and Offense, V.T.C.A., Transportation Code section 683.073.

ARTICLE 8.200 ABANDONED MOTOR VEHICLES
--

### Sec. 8.203 City Procedures for Abating Nuisance

(a) Adoption of Procedures. The city has, by this article, adopted procedures for the abatement, removal and disposal of junked vehicle or part of a junked vehicle as a public nuisance. These procedures conform to the requirements of chapter 683, subchapter E of the Texas Transportation Code.

(b) Notice.

(1) Prior to the abatement and removal of the public nuisance, the chief of police or the code enforcement officer or other regular salaried, full-time employee of the municipality shall provide not less than ten (10) days written notice of the nature of the nuisance, which notice must be sent by certified mail with a five day return, or delivered by the United States Postal Service with signature confirmation requested to:

(A) The last known registered owner of the nuisance;

(B) Each lienholder of record of the nuisance; and

(C) The owner or occupant of:

(i) The property on which the nuisance is located; or

(ii) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(2) The notice must state that:

(A) The nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was personally delivered or mailed; and

(B) Any request for a hearing must be made before that ten (10) day period expires.

(3) 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.

(4) If the notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(c) Hearing.

(1) If a hearing is requested by a person to whom notice is required to be sent in accordance with subsection (b), the hearing shall be held not earlier than the eleventh day after the date of service of the notice. A request for a hearing shall be in writing to the mayor. The mayor will transmit the request to the municipal judge. Upon receiving a request for hearing, the clerk of the municipal court or the municipal judge himself/herself shall set a date and time for the hearing, and shall notify the requestor, and all persons entitled to notice under subsection (b) of the date and time for such hearing, and the location of the hearing. If the address of persons entitled to notice under subsection (b) is not available, such notice may be otherwise delivered or posted in accordance with subsection (b). The municipal judge shall hear the matter at the location, date and time noticed, unless changed by agreement or necessity with notice to the requestor, and shall, based on the information presented by the city representative(s) and the requestor (or any other person with legal or equitable interest in the matter) at the hearing, make a determination of whether the vehicle or vehicle part is a public nuisance under this article. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the municipal judge so finds, he/she shall enter an order making such finding, ordering the owner of the vehicle or vehicle part, or owner or occupant of the private premises where the vehicle or vehicle part is located, as the case may be, to abate the public nuisance by removing or causing the removal of the same, and directing that if such public nuisance is not abated within ten days of the order that the chief of police, or someone acting under this direction, remove and cause to be removed the vehicle from the public or private property. The order shall be in writing, and must include, if available at the location of the nuisance, the following:

- (A) Vehicle description;
- (B) Vehicle identification number; and
- (C) License plate number.

A copy of the order shall be mailed by certified mail to all known persons entitled to, notice under subsection (b), or otherwise provided or posted in accordance with subsection (b) if the address is unknown.

(2) If a hearing is not requested by a person entitled to notice pursuant to subsection (b) above, the matter will be placed on the agenda of a regular or special meeting of the board of aldermen of the city for public hearing and action. A public hearing will be held to receive information from city staff as to the alleged public nuisance. Any interested person (having a legal or equitable interest in the vehicle or vehicle part, or the property on which it is located) may also be heard. Comments from the public may be received within the limits set by the board of aldermen. At the conclusion of the public hearing, the board of

aldermen shall take action on the item. If the council determines that the vehicle or vehicle part constitutes a public nuisance within the purview of this article, it shall pass a written resolution making such determination, and directing that if such nuisance is not abated within ten (10) days of the resolution that the chief of police or his authorized agent remove or cause the removal of the nuisance from the private or public property, as the case may be. The resolution shall include the following, if available from the location of the nuisance:

- (A) Vehicle description;
- (B) Vehicle identification number; and
- (C) License plate number.

A copy of a resolution shall be mailed by certified mail to all known persons entitled to notice under subsection (b), or otherwise provided or posted in accordance with subsection (b) if the address is unknown.

**State law reference**—Notice, V.T.C.A., Transportation Code section 683.075 and Hearing, V.T.C.A., Transportation Code section 683.076.

## ARTICLE 8.200 ABANDONED MOTOR VEHICLES

### **Sec. 8.204 Entry onto Premises for Enforcement of this Article**

The chief of police, the code enforcement officer or other regular salaried, full-time employee of the municipality may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance in accordance with this article. A municipal or county court may enter orders to enforce this article.

**State law reference**—Authority to abate nuisance; procedures, V.T.C.A., Transportation Code section 683.074.

## ARTICLE 8.200 ABANDONED MOTOR VEHICLES

### **Sec. 8.205 Removal of the Nuisance**

(a) Removal of the nuisance shall be carried out, or caused to be carried out, by the chief of police the code enforcement officer or other regular salaried, full-time employee of the municipality, in accordance with this article, and the orders and resolutions issued thereunder. Procedures for abatement and removal of a public nuisance will be administered by full-time regularly salaried employees of the city except that an authorized person may remove the nuisance, including a contractor hired by the city.

- (b) The chief of police shall give notice to the Texas Department of Transportation identifying the vehicle or vehicle part not later than the fifth (5th) day after the date of removal.
- (c) A junked vehicle or part may not be reconstructed or made operable by the city after it is removed.
- (d) Nothing herein shall be construed to affect laws or regulations permitting the immediate removal of a motor vehicle or part left on public property which constitutes an obstruction to traffic or a danger to the traveling public.
- (e) Junked motor vehicle or vehicle parts may be disposed of in accordance with this article.

**State law reference**—Authority to abate nuisance; procedures, V.T.C.A., Transportation Code section 683.074.

## ARTICLE 8.200 ABANDONED MOTOR VEHICLES

### **Sec. 8.206 Disposal**

The chief of police, the code enforcement officer or other regular salaried, full-time employee of the municipality, may dispose of or cause the disposal of the junked motor vehicle or vehicle part by removal to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a county or a municipality, or as otherwise provided by chapter 683, subchapter E of the Transportation Code, or amendments or recodification thereof.

**State law reference**—Junk vehicle disposal, V.T.C.A., Transportation Code section 683.078.

## ARTICLE 8.200 ABANDONED MOTOR VEHICLES

### **Sec. 8.207 Removal to Noncomplying Location Not Abatement of the Nuisance**

In accordance with the authority provided by section 683.074 of the Transportation Code, as amended, the relocation of a junked vehicle or vehicle part that is a public nuisance to another location in the city after a proceeding for abatement and removal of the public nuisance has commenced by notice has no effect on the proceeding if the junked vehicle or vehicle part constitutes a public nuisance at the new location.

**State law reference**—Authority to abate nuisance; procedures, V.T.C.A., Transportation Code section 683.074(g).

## ARTICLE 8.200 ABANDONED MOTOR VEHICLES

**Sec. 8.208 Exemptions**

This article does not apply to a vehicle or vehicle part:

- (1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (2) That is stored or parked in a lawful manner on private property in connection with the lawfully operated business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
  - (A) Maintained in an orderly manner, and not stacked or arranged so that they are not screened from ordinary public view;
  - (B) Not a health hazard; and
  - (C) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery, with the following requirements:
    - (i) A solid barrier fence that is at least six (6) feet in height of a natural or earth-tone color. If greater height is necessary to screen the junked vehicles from ordinary public view, such is required; or
    - (ii) Planting fast growing plants (shrubs, trees or reeds) which are well maintained and are kept at a height of at least six (6) feet except that where a greater height is necessary to screen the junked vehicles from ordinary public view, they will be maintained at that height.

**State law reference**—Inapplicability of subchapter, V.T.C.A., Transportation Code section 683.077.

**ARTICLE 8.200 ABANDONED MOTOR VEHICLES**
**Sec. 8.209 Effect of Act on Other Law**

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.

(Ordinance 121216A adopted 12/14/16)