

ORDINANCE NO. 08-305

**AN ORDINANCE OF THE CITY OF MASON DECLARING JUNKED
VEHICLES TO BE A PUBLIC NUISANCE, OFFENSES, EXCEPTIONS,
ESTABLISHING PROCEDURES FOR DISPOSITION OF JUNKED VEHICLES,
PROVIDING NOTICE TO JUNKED VEHICLE OWNERS; PROVIDING FOR
ADMINISTRATION OF THIS ORDINANCE; PROVIDING FOR DISPOSAL OF
JUNKED VEHICLES; REPEALING ORDINANCES #07-201, #07-202, #07-299**

**And # 08-303 AND ALL OTHER ORDINANCES AND PARTS OF THE
ORDINANCES HEREWITH.**

WHEREAS, the City of Mason believes that junked, abandoned, and/or legally unusable vehicles in public view are a detriment to the quality of life of Mason 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, and.

WHEREAS, This ordinance 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.

***NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
CITY OF MASON, TEXAS:***

Section 1: Definitions

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

"Junked Vehicle" shall mean a motor 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.

"Motor Vehicle" shall mean any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act (Texas Transportation Code, Title 7, Chapter 501).

"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 otherwise wrecking or dismantling 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 2: 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 3: Offense

- A. A person commits an offense if the person maintains a public nuisance described by Section 6 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) and applicable court costs. Each day that such nuisance shall continue after the time for abatement as herein set out shall constitute a separate offense.
- C. The court shall order abatement and removal of the nuisance on conviction, in accordance with the provisions of Section 5 below.

Section 4: 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 5: Procedure for Disposition of Junked Vehicles

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. On Private Property:

After a determination is made by the Code Enforcement Department, or the City Administrator or his designee that a particular vehicle is a junked vehicle or after an order issued by the municipal court pursuant to Section 3(C) above, there shall be furnished to the owner 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 stating that a request for a hearing must be made before expiration of said ten (10) day period. Such notice shall 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 junked vehicle is unknown, notice may be placed on the vehicle. 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. On Public Property or Public Right-of Way:

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 stating that a request for hearing must be made before expiration of said ten (10) day period. Such notice shall 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 vehicle. 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. There shall be a public hearing conducted by the City Commission 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 Code Enforcement Department, City Administrator, or his designee. Such hearing shall be conducted 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 public hearing is presumed to be inoperable. Such presumption may be rebutted by evidence submitted by the owner of the vehicle. 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 Mason 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 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.
- 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. After the vehicle has been removed, it shall not be reconstructed or made operable by the City.
- F. The administration of the procedures herein shall be by the Code Enforcement Department of the City of Mason, Texas, and by such other 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 Mason 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 of this Section.

Section 6: Disposal of Junked Vehicles

A junked vehicle or part thereof may be disposed of by removal to a scrap yard, a motor vehicle demolisher, or any suitable site operated by the City of Mason 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 7: Authority to Enforce

The City Administrator or other City employee authorized to enforce this ordinance, may enter the public areas of any building or premises (other than 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 is 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.

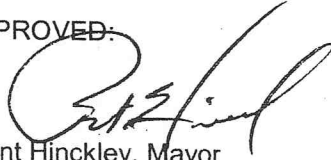
Section 8: Effect of Act on Other Laws

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.

Section 9: Effective Date

PASSED and APPROVED this the 14th day of July, 2008

APPROVED:


Brent Hinckley, Mayor

ATTEST:


Pattie Grote, City Secretary

