

ORDINANCE NO. 253

JUNKED OR ABANDONED VEHICLE ORDINANCE

AN ORDINANCE MAKING IT UNLAWFUL TO LEAVE OR PERMIT TO REMAIN UPON ANY PRIVATE OR PUBLIC PROPERTY OR PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF SUDAN, TEXAS, ANY JUNKED VEHICLE, OR PART OR PORTIONS THEREOF, DECLARING THE LEAVING OR PERMITTING TO REMAIN, OF ANY JUNKED MOTOR VEHICLE, OR PART OR PORTION THEREOF, UPON PUBLIC OR PRIVATE PROPERTY OR PUBLIC RIGHT-OF-WAY IN THE CITY OF SUDAN, TEXAS, (EXCEPT AS PROVIDED HEREIN) TO BE UNLAWFUL AND ESTABLISHING PROCEDURES FOR ABATEMENT AND REMOVAL OF JUNKED VEHICLES OR PARTS THEREOF, AND PUBLIC NUISANCES, FROM PRIVATE PROPERTY OR PUBLIC PROPERTY OR PUBLIC RIGHT-OF-WAY, PROVIDING THAT NOTICE BE GIVEN; PROVIDING A PENALTY; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, the City Council of the City of Sudan, Texas, finds a number of junked vehicles, as that term is defined therein, are from time to time left in places where they are visible from a public place or public right-of-way, that said junked vehicles create fire hazards and that the same constitutes an attractive nuisance, creating a hazard to the health and safety of the general public, and the same are detrimental to the economic welfare of the City of Sudan by producing the urban blight which is adverse to the maintenance and continuing development of the City of Sudan, Texas

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Sudan, Texas:

Section 1. Short title

This article shall be known and cited as the "Junked or Abandoned Vehicle Ordinance".

Section 2. Definitions.

As used in this article:

- A. **Antique vehicle:** means passenger car or truck that is at least twenty-five (25) years old.
- B. **Collector:** means the owner of one (1) 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 his own use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest

- C. **Demolisher:** means any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle motor vehicles.
- D. **Junk vehicle or Abandoned:** means every self-propelled mechanical device, in, upon or by which any person or property may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, truck tractors, trailer, and semi trailers, but excepting devices moved by human power or used exclusively upon stationary rails or tracks, and which;
1. Is inoperative, does not have lawfully affixed to it both an unexpired license plate and a valid motor vehicle safety inspection certificate, and or that is wrecked, dismantled, partially dismantled or discarded; or
 2. Remains inoperable for a continuous period of more than thirty (30) days.
- E. **Motor Vehicle:** means any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.
- F. **Special Interest Vehicle:** means 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 hobbyists.

Section 3. Declared public nuisances.

A junked or abandoned vehicle, including a part of a junked or abandoned vehicle, that is visible from a public place or public right of way are:

- A. Detrimental to the safety and welfare of the general public.
- B. Tending to reduce the value of private property.
- C. To invite vandalism.
- D. To create fire hazards
- E. To constitute an attractive nuisance creating a hazard to the health and safety of minors.
- F. And are detrimental to the economic welfare of the city, by producing urban blight which is adverse to the maintenance and continuing development of the city.
- G. And any such vehicle is, therefore, declared to be a public nuisance.

Section 4. Code Enforcement to give notice.

- A. The code enforcement officer is authorized to notify the owner that the maintaining of a junked or abandoned vehicle or junked or abandoned vehicle part constitutes a nuisance. Notice to the owner of the existence of a nuisance shall be in accordance with the procedure set out in this chapter.
- B. For a nuisance that exists on private property the code enforcement officer shall give not less than ten (10) days written notice stating the nature of the public nuisance on private property, that the junked vehicle or junked vehicle part must be removed within the (10) days of receipt of the notice of the existence of the nuisance, and further stating that the owner may request a hearing before the City Council and that the request for a hearing must be made before the expiration of ten (10) days after receipt of the notice. The notice must be mailed, by certified mail to the last know registered owner(s) of the motor vehicle and all lien holders of record, and to the owner or occupant of the private premises on which the public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall not be taken less than ten (10) days after the date of the return.
- C. For a nuisance existing on public property or on public right-of-way the code enforcement officer shall give not less than ten (10) day written notice stating the nature of the public nuisance on public property, or on public right-of-way that the junked vehicle or junked vehicle part must be removed within ten (10) days of receipt of the notice of the existence of the nuisance, and further stating that the owner may request a hearing before the City Council and that the request for a hearing must be made before the expiration of ten(10) days after receipt of the notice. The notice must be mailed, by certified mail to the last know registered owner(s) of the vehicle and all lien holders of record, and 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 notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall not be taken less than ten (10) days after the date of the return.
- D. If any owner requests a hearing within ten (10) days of receipt of the notice of the existence of a nuisance as provided for in this section, such request shall be forwarded to the code enforcement officer who shall place the request on the agenda, and who shall give not less than ten (10) days notice to the owner requesting the public hearing of the date that the City Council will hold a public hearing on the matter. Written notice of the public hearing before the City Council shall be provided to requester and notice posted at City Hall.
- E. Before city personnel or any other persons are authorized to remove a vehicle or vehicle part which is in violation of this chapter, he or she shall first obtain from the City Council an order or resolution ordering the removal of the junked or abandoned vehicle or junked or abandoned vehicle part, which shall

include a description of the vehicle or part and the correct identification and license number of the vehicle or vehicle part and its location.

- F. A junked or abandoned vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher, or any suitable site; however, it is unlawful for any person to reconstruct or make operable any junked vehicle after it has been removed.
- G. Not later than the fifth (5th) business day after the removal of a junked or abandoned vehicle or junked or abandoned vehicle part, the code enforcement officer shall notify the State Department of Highways and Public Transportation of the removal of the junked or abandoned vehicle or junked or abandoned vehicle part, so that the Department may cancel the certificate of title. The notice must identify the vehicle or vehicle part.

Section 5. Public hearing to be held; order of removal.

- A. Prior to the removal of any vehicle alleged to be a junked or abandoned vehicle or part thereof, as a public nuisance, a public hearing shall be held before the City Council to determine if good cause exists why such vehicle should not be removed and abated as a nuisance, provided such hearing has been requested by the owner or occupant of the premises adjacent to the public right of way on which the vehicle is located, within thirty (30) days after service of the notice to abate the nuisance.
- B. If such owner or occupant fails to present good cause showing why the vehicle should not be removed and abated as a nuisance, the City Council shall order such owner or occupant to remove the junked or abandoned vehicle within 10 (ten) days from the date of such order. At the expiration of the 10 (ten) days the junked or abandoned vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher, or any suitable site.

Section 6. Code Enforcement Officer to remove vehicle, when; sale of vehicle

- A. The code enforcement officer may dispose of junked or abandoned vehicles by sale to a demolisher or scrap yard for the highest amount bid or offered under competitive bidding, or remove the vehicles to a scrap yard, demolisher or any suitable site for processing and sale as scrap or salvage.
- B. Upon the sale of any vehicle, the city shall apply the proceeds first to the costs incurred by it in abating and storing the nuisance, and the balance, if any, shall be paid to any person showing proper entitlement thereto.

Section 7. Removed vehicle not to be made operable.

A junked or abandoned vehicle, once removed in accordance with this article, shall never be reconstructed or made operable.

Section 8. Notice to be given to State upon removal.

Within five (5) days after the removal of any junked or abandoned vehicle, notice thereof shall be given to the State Department of Highways and Public Transportation, identifying the vehicle or part thereof removed.

Section 9. Exempted vehicles.

This article shall not apply to any:

- A. Vehicle or part thereof 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. Vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business or licensed vehicle dealer or junkyard; or
- C. Unlicensed, operable or inoperable antique and special interest vehicles stored by collector on his property, provided that the vehicles and the outdoor storage areas 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 or other appropriate means.

Section 10. Administration of article.

Employees of the city or any duly authorized person shall administer as provided in this article. The code enforcement officer, specifically, may delegate any of the duties imposed upon him under this article to any employee or duly authorized person.

Section 11. City's right of entry; court may issue orders.

Any person duly authorized to administer the provisions of this article may enter upon property or parts thereof, to obtain information as to the identity of vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article. The City Council shall have authority to issue all orders necessary to enforce the provisions of this article.

Section 12. Unlawful acts declared.

It shall be unlawful:

- A. To leave, or permit to remain, upon public or private property within the city, any junked or abandoned vehicle, or part or parts thereof, for a period of time in excess of ten (10) days, subject to the provisions of section 9. above;
- B. To fail or refuse to comply with any order to remove and abate a nuisance issued under section 4. & 5. of this article, subject to the right to hearing specified in section 5;
- C. To leave, or permit to remain, upon public or private property within the city, any junked or abandoned vehicles, or part or parts thereof, for a period of one (1) day or more, after such vehicle has been once removed and abated as a nuisance, subject to the provisions of sections 9; or
- D. To reconstruct or make operable a junked or abandoned vehicle after the same has been removed pursuant to this article.

Section 13. Violation & Penalties.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and fined not more than two hundred dollars (\$200.00). Each day such violation shall be permitted to exist shall constitute a separate offense. Each vehicle or part of a vehicle on said property is liable for a separate citation. The owner of the vehicle or vehicle part thereof, where anything in violation of this article shall be guilty, and upon conviction shall be subject to the penalties provided in this section.

Sections 14. Savings Clause

If any article, paragraph or part of a paragraph of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or

impair the validity, force of effect or any other article, paragraph or part of a paragraph of this Ordinance which shall remain in full force and effect.

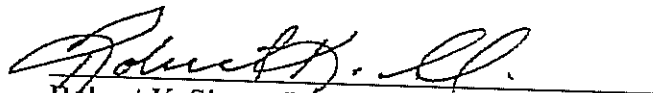
Section 15. Publications

This ordinance may be published by caption only.

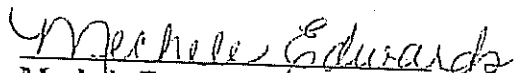
Section 16. Effective Date

This ordinance shall be effective and in full force from and after its publication as required by law.

PASSED, APPROVED AND ADOPTED this 11th day of June, 2009 by the Board of Aldermen of the City of Sudan, Texas in a regular meeting, a quorum being present, by a vote of four (4) in favor and one (1) in opposition to its passage.


Robert K. Sisson Jr., Mayor

Attest:


Mechele Edwards, City Secretary