

ARTICLE 7.100 JUNKED AND ABANDONED VEHICLES*

Sec. 7.101 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this article:

Abandoned Motor Vehicle. Means a motor vehicle that is inoperable and more than five years old and left unattended on public property for more than forty eight (48) hours, or a motor vehicle that has remained illegally on public property for a period of more than forty eight (48) hours, or a motor vehicle that has remained illegally on public property for a period of more than forty eight (48) hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty eight (48) hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within this state for more than forty eight (48) hours or for more than twelve (12) hours on a turnpike project constructed and maintained by the Texas Turnpike Authority.

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.

Garagekeeper. Means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

Junked Vehicle. Means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes):

- (1) that 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 inoperable for a continuous period of more than forty five (45) days.

Storage Facility. Means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Motor Vehicle. Means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), except that for purposes of Section 23.1402, Section 23.1404, and Section 23.1405 of this Act, "motor vehicle" includes a motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code.

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 (35) years old.

Special Interest Vehicle. Means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest is being preserved by hobbyists.

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.

Sec. 7.102 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.

Sec. 7.103 Notification of Owner and Lien Holders

(a) If the police department takes into custody an abandoned motor vehicle it shall notify, not later than the tenth (10th) day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders 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.

(b) 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 lien holders of their right to reclaim the motor vehicle not later than the twentieth (20th) day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under Section 7.104 of this article. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(c) If the identity of the last 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 lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this article. 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.

(d) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in a valid notice given under this article.

Sec. 7.104 Auction of Abandoned Motor Vehicles

(a) If an abandoned motor vehicle has not been reclaimed as provided by Section 7.103 of this article, the police department shall sell the abandoned motor vehicle at a public auction. The public auction shall be preceded by a notice published once in one (1) newspaper of general circulation in the county where the auction is to take place, at least three (3) weeks prior to the date of the auction, and in the case of a garagekeeper's lien, the garagekeeper shall be notified by certified mail. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, and set for the time and place of the auction.

(b) 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 of the city, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under Section 7.103 of this article. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) 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 publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs.

Sec. 7.105 Garagekeepers and Abandoned Motor Vehicles

(a) A motor vehicle is considered an abandoned vehicle, and shall be reported by the garagekeeper to the police department, if:

- (1) Left for more than ten (10) days in a storage facility operated for commercial purposes, after notice is given to the owner as provided by this article; or
 - (2) Left for more than ten (10) days after the expiration of a period under a contract pursuant to which the vehicle was to remain on the premises of the storage facility; or
 - (3) Left for more than ten (10) days in a storage facility by someone other than the registered owner or by a person authorized to have possession of the motor vehicle under a contract of use, service, storage, or repair.
- (b) A garagekeeper who fails to report the possession of an abandoned vehicle within ten (10) days after it becomes abandoned may no longer claim reimbursement for storage of the vehicle.
- (c) The police department, upon receipt of a report from a garagekeeper of the possession of a vehicle considered abandoned under the provisions of this article shall follow the notification procedures provided by Section 7.103 of this article, except that custody of the vehicle shall remain with the garagekeeper until after compliance with the notification requirements. A fee, as provided for in the fee schedule found in the appendix of this code, shall accompany the report of the garagekeeper to the police department. The fee shall be retained by the police department and used to defray the cost of notification or other cost incurred in the disposition of an abandoned motor vehicle.
- (d) An abandoned vehicle left in a storage facility and not reclaimed after notice is sent in the manner provided by Section 7.103 of this article shall be taken into custody by the police department and sold in the manner provided by Section 7.104 of this article. The proceeds of such sale shall first be applied to the garagekeeper's charges for servicing, storage, and repair, but as compensation for the expense incurred by the police department in placing the vehicle in custody and expense of auction, the police department shall retain two percent (2%) of the gross proceeds of the sale of each vehicle auctioned, unless the gross proceeds are less than ten dollars (\$10.00). If the gross proceeds are less than ten dollars (\$10.00), the department shall retain the ten dollars (\$10.00) to defray expenses of custody and auction. Surplus proceeds remaining from an auction shall be distributed in accordance with Section 7.104 of this article.
- (e) Except for the termination of claim for storage for failure to report an abandoned motor vehicle, nothing in this article may be construed to impair any lien of a garagekeeper under the laws of this state.

Sec. 7.106 Junked Vehicles as 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, constitutes an attractive nuisance creating a hazard to the health and safety of sub-minors, and is detrimental to the economic welfare of the city by producing urban blight adverse to the maintenance and continuing development of the city, and is a public nuisance.
- (b) The provisions of this article shall not apply to:
- (1) 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;
 - (2) A vehicle or 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
 - (3) 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 not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate means.

(c) A person commits an offense if that person maintains a public nuisance as determined under this article.

Sec. 7.107 Procedures for Abating Nuisance

(a) For a nuisance on private property, not less than ten (10) days' notice is required stating the nature of the public nuisance on private property, that it must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice shall be sent, by certified mail, with a five (5) day return requested, 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 be continued to a date not less than ten (10) days after the date of the return.

(b) For a nuisance on public property, not less than ten (10) days' notice is required stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice shall be sent, by certified mail, with a five (5) day return requested, 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 be continued to a date not less than ten (10) days after the date of the return.

(c) A vehicle removed under these procedures shall not be reconstructed or made operable after it has been removed.

(d) A public hearing is required before the removal of the vehicle or vehicle part as a public nuisance, if requested as provided in subsections (a) and (b) of this section. The hearing shall be held before the city council or an official of the city, designated by the city council, if a hearing is 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 (10) days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(e) Notice shall be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal of the vehicle or vehicle part. The notice must identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

Sec. 7.108 Disposal of Junked Vehicles

When the junked vehicle, or part thereof, remains on the property after ordered removed as provided by this article, the city shall cause the same to be removed and sold for the best price obtainable to a scrapyard or demolisher for processing as scrap or salvage. All sums received from the sale shall be deposited in the general fund of the city.

Sec. 7.109 Authority to Enforce

A person authorized by the city to administer the procedures established by this article may request permission to enter private property for the purposes specified in the 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 constitutes a nuisance. The municipal court of the city may issue orders necessary to enforce these procedures.

Sec. 7.110 Removal of Vehicle as Obstruction to Traffic

This article does not affect any law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

Sec. 7.111 Penalty

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon connection thereof, shall be fined as provided for in the general penalty provision found in Section 1.106 of this code. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

(Ordinance adopting Code)