

STATE OF TEXAS

Ordinance No. _____

CITY OF SEGUIN

AN ORDINANCE OF THE SEGUIN CITY COUNCIL AMENDING THE SEGUIN CODE OF ORDINANCES CHAPTER 46, ENVIRONMENT, ARTICLE VII, JUNKED, WRECKED OR DISMANTLED VEHICLES; PROVIDING FOR PROCEDURES; PROVIDING FOR PENALTIES; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES

WHEREAS, beginning March 1, 2015, vehicles in Texas will no longer have separate windshield stickers that indicate the vehicle has been inspected; and

WHEREAS, the previous definition for a junked vehicle referred to both a license and inspection sticker; and

WHEREAS, the presence of junked vehicles is a health and safety hazard, tends to reduce the value of real property and creates a nuisance; and

WHEREAS, state law allows a city to pass an ordinance making it possible to abate nuisance junked vehicles.

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

SECTION ONE. The Seguin Code of Ordinances, Chapter 46, Environment, Article VII, Junked, Wrecked or Dismantled Vehicles, is amended as follows (underlining indicates added text, strikethrough indicates deleted text):

Sec. 46-181. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authentic car cover means a fitted cover designed and manufactured specifically for covering a motor vehicle, and that is of the appropriate size and shape for the type of motor vehicle being covered.

Antique auto means a passenger car or truck that is at least 35 years old.

Building means a structure, completely enclosed, built for the support, shelter and/or enclosure of persons or property and meeting all applicable City of Seguin building codes.

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.

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.

Junked vehicle means a motor vehicle as defined in Vernon's Ann. Civ. St. art. 6701d-11, Ch. 1, that:

- (1) Is self-propelled inoperative; and
- (2) 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 45 days. Displays an expired license plate or does not display any license plate; and
- (3) is:
 - (a) wrecked, dismantled, partially dismantled, or discarded, or
 - (b) in operable 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.
- (4) meets the requisites of 3(a) or 3(b) and
 - (a) is located within a floodway as designated by the Federal; or
 - (b) accumulation of more than one such vehicle on any property zoned residential.

Junked Vehicle-Watercraft means a watercraft that does not have lawfully on board an unexpired certificate number and is not a watercraft described by Section 31.055 of the Texas Parks and Wildlife Code.

Nuisance vehicle is a vehicle that is a public nuisance under Section 46-185.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from the manufacturer's specifications and, because of its historic significance, is being preserved by a hobbyist.

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

Sec. 46-182. - Enforcement.

(a) ~~The assistant health officer or his agent~~ Persons authorized under this division to administer the procedures set forth herein may enter upon private property for the purposes specified in this article to examine vehicles or parts thereof, 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.

(b) The municipal court shall have jurisdiction authority to conduct hearings and issue all orders necessary to enforce this article.

Sec. 46-183. - Applicability.

Nothing in this article shall affect ordinances that permit the immediate removal of a vehicle left on public property which constitutes an obstruction to traffic.

Sec. 46-184. - Offense Penalty.

~~Upon conviction for violation of any section of this article relating to the maintaining of a public nuisance or in permitting or allowing such public nuisances to exist, such violator shall be punished as provided in section 1-14.~~

(a) Any person who maintains or permits a nuisance vehicle on public or private property commits a misdemeanor, and upon conviction shall be subject to a fine not to exceed \$200.00. Each day a violation continues constitutes a separate offense.

(b) Upon conviction, the court shall order the removal and abatement of the nuisance vehicle.

Sec. 46-185. - Nuisance.

It is hereby determined that within the City of Seguin a junked vehicle, including junked watercraft and a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

- (1) is detrimental to the safety and welfare of the public;
- (2) tends to reduce the value of private property;
- (3) invites vandalism;
- (4) creates a fire hazard;
- (5) is an attractive nuisance creating a hazard to the health of minors;
- (6) produces urban blight adverse to the maintenance and continuing development of the city; and
- (7) is a public nuisance.

~~(a) The location or presence of any junked vehicle on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city shall be deemed a public nuisance. It shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperative, abandoning or discarding his vehicle on the property of another or to suffer, permit or allow the junked vehicle to be placed, located, maintained or exist upon his own real property.~~

(b) — The presence of a junked vehicle within a floodway is a health hazard and a public nuisance. Notwithstanding any other provision of this article, it shall be unlawful for any person to permit or allow a junked vehicle to be placed, located, maintained, or exist upon real property located in a floodway as designated by the Federal Emergency Management Agency (FEMA).

(c) — This section shall not apply to the following:

(1) — 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;

(2) — A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or

(3) — Unlicensed, operable or inoperable antique and special interest vehicles stored by a 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, rapidly growing trees, shrubbery, or an authentic car cover.

(d) — Accumulation of junked vehicles. The accumulation of more than one junked vehicle or parts thereof on private property shall constitute a nuisance to the health, safety and welfare of the residents of the City of Seguin and it shall be the duty of the owner of the private property, or lessee or other person in possession of private property, upon which such vehicle or parts thereof is located, to remove such vehicle or parts thereof from such property or to have the vehicle or parts thereof housed in a building as defined in section ~~46-181~~

Sec. 46-186. Junked vehicles prohibited on public property. Abatement or removal order.

(a) It is unlawful for a person to cause or permit a junked vehicle or a part of a junked vehicle to be placed or to remain on any public property or public right-of-way.

(b) A vehicle that remains in violation of this section for a period of more than 48 hours constitutes an abandoned motor vehicle and may be dealt with under processes defined by state law for removal of abandoned motor vehicles.

(a) — For a nuisance on private property pursuant to this article, the assistant health officer 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 the 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 lien holder of record and the owner or occupant of the private premises on which the public nuisance exists. 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.

(b) — For a nuisance on public property pursuant to this article, the assistant health officer shall give not less than ten days notice, 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 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 lien holder of record and 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 days after the date of the return.

(c) — After a vehicle has been removed it shall not be reconstructed or made operative.

(d) — A public hearing prior to the removal of the vehicle or part thereof as a public nuisance is to be held before the city council or official of the city as designated by the city council when such 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 days after service of notice to abate the nuisance. Any resolution or order requiring the removal of a vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

(e) Notice by the city is to be given to the state department of highways and public transportation within five days after the date of removal identifying the vehicle or part thereof. Such department shall forthwith cancel the certificate of title to such vehicle pursuant to Vernon's Ann. Civ. St. art. 6687-1.

(f) — The assistant health officer shall administer the removal of vehicles or parts thereof from property.

Sec. 46-187. Nuisance vehicles prohibited on private property. Removal with permission of owner or occupant:

(a) It is unlawful for a person that owns or controls any real property to maintain, allow, cause or permit a nuisance vehicle to be placed or to remain on the property.

(b) It is unlawful for a person to maintain, allow, cause or permit a nuisance vehicle to be placed or to remain on real property without the permission of the owner of the property.

If within ten days after receipt of notice from the assistant health officer to abate the nuisance as provided in this article, the owner or occupant of the premises shall give his written permission to the assistant health officer for removal of the junked motor vehicle from the premises. The giving of such permission shall be considered compliance with section 46-186.

Sec. 46-188. Defenses to prosecution. Disposal:

(a) The following are defenses to prosecution under section 46-187 or abatement under 46-189:

(1) The vehicle or vehicle part is completely enclosed within a building and is not visible from the street or other private or public property;

(2) The vehicle or vehicle part is stored or parked on private property in connection with the business of a licensed vehicle dealer or junkyard;

(3) The vehicle is an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and 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;

(4) The vehicle is completely covered by a heavy duty, authentic car cover so that no part of the vehicle except the tires is exposed to public view and it is the only one on the property; or

(5) The vehicle is in an appropriate storage facility maintained by the city or approved by the city.

(b) This section does not allow a person to leave a junked vehicle on private property without the permission of the owner of the property.

(a) — If the public nuisance is not abated by the owner or occupant after notice is given pursuant to this article, official action shall be taken by the city to abate such nuisance. Junked vehicles or parts thereof may be disposed of by removal to a scrapyards, demolisher or any suitable site operated by the city for processing as scrap or salvage, which removal or process shall be considered with subsection (b) of this section. A junked vehicle disposed of to a demolisher, in accordance with this article, must be transferred to such demolisher by a form acceptable to the state department of highways and public transportation (form #MVD-71-5). The transfer receipt must be listed on the demolisher's inventory list and surrendered to the state department of highways and public transportation in lieu of the certificate of title under Vernon's Ann. Civ. St. art. 6687-2.

(b) — After a vehicle has been removed pursuant to this section, it shall not be reconstructed or made operable by any person.

(c) — Notice shall be given to the state department of highways and public transportation five days after the date of removal, identifying the vehicle or part thereof.

Sec. 46-189. Notice to abate nuisance vehicle.

(a) For nuisance vehicles on private property as described in section 46-187, written notice by certified mail, five-day return requested:

(1) the last known registered owner of the vehicle

(2) any lienholder of record; and

(3) the owner or occupant of

(i) the property on which the vehicle is located; or

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

(b) The notice must state that

- (1) The existence and nature of the nuisance;
- (2) the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed;
- (3) that a request for a hearing must be made before the 10-day period expires or it will be automatically waived; and
- (4) that if the nuisance is not removed and a hearing is not requested within the ten-day period the City will remove or cause the removal of the nuisance vehicle.

(c) If the post office address of the last known registered owner of the nuisance is unknown, notice may be place on the nuisance vehicle or, if the owner is located, personally delivered.

(d) If any notice is returned undelivered, official action to abate the nuisance vehicle shall be continued to a date not earlier than eleventh day after the date of return.

(e) For nuisance vehicles on public property as described in section 46-186 which are not dealt with as abandoned motor vehicles, written notice shall be given as described in subsection (a) of this section, except that notice must be mailed to the occupant of the public premises and to the owner or occupant of the premises adjacent to the public right-of-way.

Sec. 46-190. Public hearing in municipal court.

(a) Upon the timely request for a hearing of any person to whom a notice was given regarding a nuisance vehicle, a public hearing will be held before a municipal court judge. Notice of the time, date and location of the hearing will be provided to each person who submitted a timely request for a hearing.

(b) The issue at the hearing is whether the vehicle is a nuisance vehicle.

(c) At the hearing, unless proved otherwise, the vehicle is presumed to be inoperable.

(d) If the judge finds the vehicle to be a nuisance vehicle, the judge will order the vehicle to be removed.

(e) Any order requiring the removal of a nuisance vehicle or vehicle part must include a description of the vehicle and the vehicle identification number and license number, if the information is available at the site.

Sec. 46-191. Removal of nuisance vehicle.

The city may remove a nuisance vehicle at any time following a public hearing and order of the judge or following the waiver of a hearing.

Sec. 46-192. Disposal of nuisance vehicle.

(a) A nuisance vehicle or vehicle part will be disposed of by the city by removal to a scrapyard, demolisher or any suitable site operated by the city for processing as scrap or salvage, and any reconstruction or work to make the vehicle operable after being removed is prohibited.

(b) If the city council determines that commercial channels of disposition are not available or are inadequate, the city may operate its own disposal site and make final disposition of nuisance vehicles or vehicle parts at the disposal site or the city may transfer the vehicles or vehicle parts to another disposal site if the disposal is only as scrap or salvage.

Sec. 46-193 Notice to state.

The director of environmental health will give notice to the state department of transportation of the removal of a nuisance vehicle not later than five days after its removal. The notice will identify the vehicle or vehicle part.

Reserved 46.194-46.250

SECTION TWO. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION THREE. All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION FOUR. City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

SECTION FIVE. This ordinance shall be effective upon ten (10) days following passage on second reading and published in a newspaper of general circulation.

PASSED AND APPROVED on first reading on the 17th day of March, 2015.

PASSED, APPROVED AND ADOPTED on second reading on the 23rd day of March, 2015.

DON KEIL
Mayor

ATTEST:

Thalia Stautzenberger
City Secretary

