

ORDINANCE NO. 3-15B

AN ORDINANCE OF THE CITY OF SNOOK, TEXAS, ADOPTING REGULATIONS CONCERNING JUNKED VEHICLES; PROVIDING FOR FINDINGS OF FACT; POPULAR NAME; DEFINITIONS; DECLARATION OF PUBLIC NUISANCE; COMPLAINT AND INVESTIGATION PROCEDURES; NOTICE FOR REMOVAL AND PUBLIC HEARING; ORDER FOR REMOVAL; DUTY OF OWNER OR OCCUPANT OF PREMISES; VEHICLES NOT TO BE MADE OPERABLE; NOTICE TO TEXAS DEPARTMENT OF TRANSPORTATION; EXEMPTIONS; ADMINISTRATION; REMOVAL OF VEHICLE; SALE OR DISPOSAL OF VEHICLE; ENFORCEMENT; MAXIMUM CRIMINAL FINE OF \$200.00 OR CIVIL PENALTY OF \$100.00 FOR EACH VIOLATION; REPEAL; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Snook, Texas ("City Council") seeks to promote the health, safety and general welfare of the City of Snook ("City") by preventing death, injuries, property damage and urban blight within the City limits; and

WHEREAS, the City Council finds that junked vehicles are conducive to the stagnation of water and promulgation of weeds, thus contributing to infestations of insects, vermin and other threats to the public; and

WHEREAS, the City Council finds that the existence of junked vehicles within the City limits will result in vandalism, fire hazards, hazards to the health and safety of minors and the production of urban blight; and

WHEREAS, the City Council finds that the existence of junked vehicles constitutes a public nuisance that poses a significant and immediate threat to the health, safety and welfare of the citizens of the City and their property; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 217 of the Texas Local Government Code, the City has the authority to define what constitutes a nuisance and abate in any manner deemed expedient any nuisance that may injure or affect the public health or comfort; and

WHEREAS, pursuant to Chapter 683 of the Texas Transportation Code, a junked vehicle, including a part thereof, that is visible from a public place or public right-of-way can constitute a public nuisance and the City Council has authority to abate and

remove such a nuisance through certain legal and/or administrative proceedings;
and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace, and order of the City of Snook to adopt an ordinance regulating junked vehicles that are public nuisances and including procedures for the abatement and removal of the public nuisances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SNOOK, TEXAS THAT:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. POPULAR NAME

This Ordinance shall commonly be referred to as the City's "Junked Vehicle Ordinance."

III. DEFINITIONS

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases which are not defined in this Ordinance but are defined in other ordinances of the City of Snook or state law shall be given the meanings set forth in those ordinances or state law, as applicable. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this ordinance.

A. "Junked vehicle" means a motor vehicle, aircraft, or watercraft, that:

(1) is self-propelled; and

(2) is:

(A) wrecked, dismantled or partially dismantled, or discarded; or

(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property; or

(ii) 30 consecutive days, if the vehicle is on private property; and

(3) is:

(A) a motor vehicle that displays an expired license plate or does not display a license plate; or

(B) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or

(C) a watercraft that:

(i) does not have lawfully on board an unexpired certificate of number;
and

(ii) is not a watercraft described by Section 31.055, Texas Parks and Wildlife Code.

- B. "Junked vehicle parts" means parts from a junked vehicle.
- C. "Antique vehicle" means a passenger car or truck that is at least 25 years old.
- D. "Motor vehicle collector" means 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 or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.
- E. "Special interest vehicle" means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.
- F. "Officer" means any person designated by the City Council as authorized to investigate and enforce suspected violations of City ordinances or regulations.
- G. "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.
- H. "City" means the City of Snook, Texas.
- I. "City Council" means the city council of the City of Snook, Texas.
- J. "City Secretary" means the City Secretary of the City of Snook, Texas.

IV. 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. As such, these vehicles are declared to be a public nuisance.

V. NUISANCE PROHIBITED

It shall be unlawful for any person to maintain, possess, or locate a junked vehicle or parts or portions thereof, within the City of Snook, in violation of this Ordinance.

VI. COMPLAINT AND INVESTIGATION

(a) Any person may file a complaint alleging the existence of a junked vehicle, or part thereof, as a public nuisance in the City. The complaint must:

- (1) Be in writing;
- (2) Provide sufficient details about the alleged nuisance so that its location can be determined;
- (3) Be signed by the complainant; and
- (4) Be filed with the City Secretary, Municipal Court Clerk, or other individual designated by the City Council.

(b) On his/her own knowledge or on the basis of a written complaint, an officer shall investigate the alleged existence of a junked vehicle, or part thereof, on private or public property or a public right-of-way within the City.

(c) The officer may enter private property where the alleged junked vehicle, or part thereof, is located in order to examine the public nuisance, to obtain information to identify the nuisance and to remove or direct removal of the nuisance.

VII. NOTICE AND HEARING

(a) If it is determined by the officer that a nuisance, as defined herein, exists in the City, the officer shall give notice or cause notice to be given in writing. The notice shall state: the nature of the public nuisance; that the nuisance must be removed and abated not later than the tenth (10th) day after the date on which the notice was personally delivered or mailed and that a request for a hearing must be made before that ten (10) day period expires. The notice must be personally delivered, sent by certified mail with a five (5) day return requested, or delivered by the United State Postal Service with signature confirmation service to:

- (1) The last known registered owner of the nuisance;
- (2) Each lien holder of record of the nuisance; and
- (3) The owner or occupant of:
 - (A) The property on which the nuisance is located; or
 - (B) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) 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 by other means, personally delivered.

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

(d) A hearing must be held, prior to the removal of the junked vehicle or the part thereof as a public nuisance, before the Municipal Court Judge, when such hearing is requested by the owner or occupant of the premises on which said vehicle is located, not earlier than the eleventh (11th) day after service of notice to abate the nuisance. At the hearing, the junked vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, an order requiring removal of the nuisance must include:

(1) for a motor vehicle, the vehicle's:

- (A) description;
- (B) vehicle identification number; and
- (C) license plate number;

(2) for an aircraft, the aircraft's:

- (A) description; and
- (B) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and

(3) for a watercraft, the watercraft's:

- (A) description; and
- (B) identification number as set forth in the watercraft's certificate of number.

(f) If, after written notice has been given, as described in this Ordinance, and continuing through the hearing, the owner relocates the junked vehicle, or a part thereof, to another location in the City of Snook, Texas the relocation has no effect on the hearing if the vehicle, or a part thereof, constitutes a public nuisance at the new location.

VIII. ORDER BY JUDGE

(a) After the hearing is held by the Municipal Court Judge as herein provided, if the Judge finds that such a nuisance as herein defined exists, the Judge shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within ten (10) days after said order is given to such owner or occupant of the premises on which said vehicle is located.

(b) It shall be unlawful and a violation of this Ordinance for any person to whom such order is given to fail or refuse to comply therewith and to fail to remove such junked vehicle within the time provided by said order.

X. DUTY OF OWNER OR OCCUPANT

In the event the owner or occupant of the premises does not request a hearing, as herein provided, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten (10) days after the date of the receipt of such notice.

XI. VEHICLES NOT TO BE MADE OPERABLE

After a vehicle has been removed in accordance with or under the terms and provisions of this Ordinance, it shall not be reconstructed or made operable.

XII. NOTICE TO TXDOT

Notice shall be given by the officer to the Texas Department of Transportation ("TXDOT") within five (5) days after the date of removal identifying the vehicle or part thereof.

XIII. AFFIRMATIVE DEFENSES

It is an affirmative defense to prosecution under this Ordinance if a junked vehicle or junked vehicle part:

(a) Is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(b) 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 stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

- (1) maintained in an orderly manner;
- (2) not a health hazard; and
- (3) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

XIV. ADMINISTRATION

The administration of this Ordinance shall be by regularly salaried, full-time employees of the City of Snook, except that the removal of junked vehicles or parts thereof from property may be by any other duly authorized person.

XV. REMOVAL

After ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, after ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which said vehicle is located, the officer, if said nuisance has not been abated, may remove or cause to be removed the vehicle which was the subject of such notice to a scrap yard, a motor vehicle demolisher, or any suitable site operated by the City, 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.

XVI. ENFORCEMENT

(a) The City of Snook, Texas, shall have the power to administer and enforce provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

(b) Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not to exceed Two Hundred and No/100 Dollars (\$200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(c) No culpable mental state shall be required for a conviction under this Ordinance.

(d) Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including but not limited to the following:

(1) Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance;

(2) A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of this Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and

(3) Other available relief.

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

XVIII. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

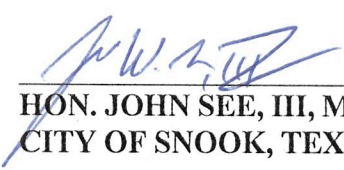
XIX. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

XX. PROPER NOTICE AND MEETING

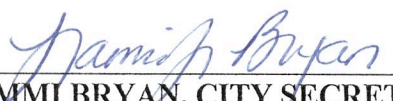
It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED THIS THE 23rd DAY OF MARCH, 2015.



**HON. JOHN SEE, III, MAYOR
CITY OF SNOOK, TEXAS**

ATTEST:



**TAMMI BRYAN, CITY SECRETARY
CITY OF SNOOK, TEXAS**