

## ARTICLE 8.06 ABANDONED AND JUNKED MOTOR VEHICLES\*

### Division 1. Generally

#### Sec. 8.06.001 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Abandoned motor vehicle. A motor vehicle is abandoned if the motor vehicle:

- (1) Is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (2) Has remained illegally on public property for more than 48 hours;
- (3) Has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
- (4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; or
- (5) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the state turnpike authority or a controlled-access highway. For the purpose of this subsection (5), “controlled-access highway” has the meaning assigned by V.T.C.A., Transportation Code, section 541.302.

Antique vehicle. A passenger car or truck that is at least 25 years old.

Department. The state department of transportation.

Garagekeeper. An owner or operator of a storage facility.

Junked vehicle. A vehicle that is self-propelled and inoperable and:

- (1) Does not lawfully have affixed to it:
  - (A) An unexpired license plate;
  - (B) A valid motor vehicle inspection certificate; 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.

Law enforcement agency.

- (1) The department of public safety;
- (2) The police department of the city;
- (3) A police department of an institution of higher education; or
- (4) The sheriff's department or a constable of the county.

Motor vehicle. A vehicle that is subject to registration under V.T.C.A., Transportation Code, chapter 501, except that for purposes of section 8.06.031 through section 8.06.033 "motor vehicle" includes a motorboat, outboard motor, personal watercraft or vessel subject to registration under V.T.C.A., Parks and Wildlife Code, chapter 31.

Motor vehicle collector. 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.

Motor vehicle demolisher. A person in the business of:

- (1) Converting motor vehicles into processed scrap or scrap metal; or
- (2) Wrecking or dismantling motor vehicles.

Police department. The police department of the city.

Special interest vehicle. 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.

Storage facility. Includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

**Sec. 8.06.002 Right of entry; enforcement**

Any person duly authorized by the city to administer the procedures authorized by this article may 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 may issue orders necessary to enforce the procedures.

**Sec. 8.06.003 Effect of article on other laws authorizing removal of vehicles**

This article relating to junked and abandoned motor vehicles does not affect any law or ordinance authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

**Secs. 8.06.004–8.06.030 Reserved**

**Division 2. Abandoned Motor Vehicles**

**Sec. 8.06.031 Authority to move and remove vehicles**

(a) Whenever a police officer finds a vehicle unattended upon a street or highway in violation of any provisions of a statute or ordinance, such police officer is authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the paved or main-traveled part of such highway or street.

(b) Any police officer is authorized to remove a vehicle from any public or private property to the nearest garage, or other place of safety, or to a storage place designated by the city, under the following circumstances:

(1) When any vehicle is left unattended upon any bridge or causeway where such vehicle is an obstruction to traffic;

(2) When any vehicle is illegally parked so as to block the entrance to any private driveway and it is impractical to move such vehicle from in front of the driveway to another point along the highway;

(3) When any vehicle is found upon a highway and report has previously been made that such vehicle has been stolen or complaint has been filed and warrant thereon issued charging that such vehicle has been embezzled;

(4) When any such police officer has reasonable grounds to believe that any vehicle has been abandoned;

(5) After a vehicle that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, or is so disabled that its normal operation is impossible or impractical, has been parked on any public highway and after the owner has been given at least 48 hours' notice either in person or in writing attached to the windshield at the beginning of the 48-hour period that the vehicle will be removed after the expiration of such period; and

(6) When an officer arrests any person driving or in control of a vehicle for an alleged offense and such officer is authorized by this code or other law to take the person arrested into custody or to take the person immediately before a magistrate.

(c) Any vehicle standing unattended may be moved by any member of the police or fire department, and any police officer or firefighter may require the moving of any such vehicle if it obstructs the free movements of such persons in the actual discharge of their duties.

(d) Any member of the police department is hereby authorized to remove any vehicle parked or standing in or on any portion of a highway when, in the opinion of the member of the police department, the vehicle is a hazard or interferes with a normal function of a governmental agency or because of any catastrophe, emergency or unusual circumstance the safety of the vehicle is imperiled.

(e) The police department may employ its own personnel, equipment, and facilities to remove, preserve and store such vehicles it takes into custody.

#### **Sec. 8.06.032 Notice of removal; storage fees**

(a) The police department that takes into custody an abandoned motor vehicle shall notify, no later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record pursuant to the Certificate of Title Act (V.T.C.A., Transportation Code, chapter 501) or V.T.C.A., Parks and Wildlife Code, chapter 31, that the vehicle has been taken into custody. 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; and inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the 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 given under section 8.06.034. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) 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 address of all lienholders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this section. The notice by publication may contain multiple listings of abandoned vehicles, shall be published with the same requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) In addition to the notice required under subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the

theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

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

(e) The police department or agent of the police department that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for:

(1) A period of not more than ten days beginning on the day the department takes custody and continuing through the day the department mails notice as provided by this section; and

(2) A period beginning on the day after the day the department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

### **Sec. 8.06.033 Auction of unclaimed vehicles; transfer of title; disposition of proceeds**

If an abandoned motor vehicle has not been reclaimed as provided by section 8.06.032, the police department may sell the abandoned motor vehicle at a public auction. Proper notice of the public auction shall be given, and, in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. 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, 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 into custody; and all notice and publication costs incurred under section 8.06.032. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 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 vehicle are insufficient to meet these expenses and costs. The city may transfer funds in excess of \$1,000.00 from the account to the general revenue account to be used by the police department.

### **Sec. 8.06.034 Disposition of vehicles abandoned at garagekeeper's establishment**

(a) A motor vehicle left for more than ten days in a storage facility operated for commercial purposes after notice is given by registered or certified mail, return receipt requested, to the owner and to any lienholder of record under the Certificate of Title Act (V.T.C.A., Transportation Code, chapter 501) to pick up the vehicle, or for more than ten days after a period when under a contract the vehicle was to remain on the premises of the storage facility, or a motor vehicle left for more than ten 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 contract of use, service, storage or repair is considered an abandoned vehicle and shall be reported by the garagekeeper to the police department. If the notice to the owner or a lienholder is returned by the post office unclaimed,

notice by one publication in one newspaper of general circulation in the area in which the vehicle was left in storage is sufficient notice.

(b) If a garagekeeper or storage facility acquires possession of a motor vehicle for a purpose other than repair, the garagekeeper or storage facility is entitled to towing, preservation, and notification charges and to reasonable storage fees, in addition to storage fees earned pursuant to contract for each day, up to a maximum of five days only, until notification is mailed to the last known registered owner and all lienholders of record as provided by this section. After such notice is mailed, storage fees may continue until the vehicle is removed and all accrued charges are paid. A garagekeeper who fails to report the possession of an abandoned vehicle to the police department within seven 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 section, shall follow the notification procedures provided by section 8.06.032, except that custody of the vehicle shall remain with the garagekeeper until after compliance with the notification requirements. A fee of \$10.00 shall accompany the report of the garagekeeper to the police department. The fee of \$10.00 shall be retained by the police department receiving the report and used to defray the cost of notification or other costs 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 8.06.032](#) shall be taken into custody by the police department. The police department may use the vehicle as authorized by V.T.C.A., Transportation Code, section 683.016, or the vehicle may be sold in the manner provided by [section 8.06.033](#). The proceeds of sale under this section shall first be applied to the garagekeeper's charges for providing notice regarding the vehicle and for servicing, storage and repair, but as compensation for the expense incurred by the police department in placing the vehicle in custody and the expense of auction, the police department shall retain two percent of the gross proceeds of the sale of each vehicle auctioned or all the proceeds if the gross proceeds of the sale are less than \$10.00. Surplus proceeds remaining from an auction shall be distributed in accordance with [section 8.06.033](#).

(e) Except for the termination or limitation of a claim for storage for failure to report an abandoned motor vehicle, nothing in this section may be construed to impair a lien of a garagekeeper under the laws of this state.

(f) A person charging fees under this section commits an offense if the person charges a storage fee for a period of time not authorized under this section. Such offense is a misdemeanor punishable by a fine as provided in section 1.01.009.

#### **Sec. 8.06.035 Disposal of vehicles to demolishers**

(a) A person, firm, corporation or unit of government on whose property or in whose possession is found any abandoned motor vehicle or a person who is the owner of a motor vehicle whose title certificate is faulty, lost or destroyed may apply to the state department of transportation for authority to sell, give away, or dispose of the vehicle to a demolisher.

(b) A person, firm, corporation or unit of government may dispose of a motor vehicle to a demolisher if:

- (1) The abandoned motor vehicle is eight years of age or older;
- (2) The abandoned motor vehicle either has no motor or is otherwise totally inoperable; or
- (3) The abandoned motor vehicle does not comply with applicable air pollution emissions control related requirements required by state law;
- (4) The abandoned motor vehicle was authorized to be towed by a law enforcement agency; and
- (5) The law enforcement agency approves the application; and
- (6) The person submits a fee of \$2.00, unless the application is submitted by a unit of government.

**Sec. 8.06.036 Duties of demolishers**

(a) A demolisher who purchases or otherwise acquires a motor vehicle to wreck, dismantle or demolish shall obtain a valid certificate of title, sales receipt or transfer document under [section 8.06.033](#) and [section 8.06.064](#), respectively, or certificate of authority from the person delivering the vehicle for demolition, but the demolisher is not required to obtain a certificate of title for the motor vehicle in the demolisher's name. On demand of the department of transportation, the demolisher shall surrender for cancellation the certificate of title or authority. The department of transportation shall issue such forms and rules governing the surrender of auction sales receipts and certificates of title as are appropriate. The Certificate of Title Act (V.T.C.A., Transportation Code, chapter 501) governs the cancellation of title of the motor vehicle.

(b) A demolisher commits an offense if the demolisher fails to keep an accurate and complete record of a motor vehicle purchased or received in the course of business in the manner provided by this subsection. These records must contain the name and address of the person from whom each motor vehicle was purchased or received and the date of the purchase or receipt. The records shall be open for inspection by the department of transportation or any police department at any time during normal business hours. A record required by this subsection must be kept by the demolisher for at least one year after the transaction to which it applies. A demolisher who commits an offense under this section is on conviction subject to a fine of not less than \$100.00 or more than \$1,000.00, a term of no less than ten days or more than six months in county jail, or both fine and confinement.

**Secs. 8.06.037–8.06.060 Reserved**

**Division 3. Junked Vehicles**

**Sec. 8.06.061 Public nuisance**

A junked vehicle, including a part of a junked vehicle, that is located in a place where it is visible from a public place or 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) Constitutes an attractive nuisance creating a hazard to the health and safety of others;
- (6) Produces urban blight adverse to the maintenance and continuing development of the city; and
- (7) Is a public nuisance.

**Sec. 8.06.062 Offenses; penalty**

A person commits an offense if the person maintains a public nuisance described by section 8.06.061 and fails to abate such public nuisance and to remove the vehicle or vehicle part after being directed to do so by the judge of the municipal court and shall be deemed guilty of a misdemeanor punishable by a fine as provided in section 1.01.009, and each and every day such offense shall continue shall be deemed a separate offense. The court, upon conviction of the person maintaining a public nuisance, will order abatement and removal of the public nuisance.

**Sec. 8.06.063 Procedure for abatement and removal by city**

(a) The city hereby adopts procedures for the abatement and removal of a junked vehicle, or a part of a junked vehicle, as a public nuisance, from public or private property or a public right-of-way. Such vehicle or part of a junked vehicle will not be reconstructed or made operable after removal of the public nuisance.

(b) The city shall give not less than ten days' notice stating the nature of the public nuisance on private property, that the nuisance must be abated or removed not later than the tenth day after the date on which the notice was personally delivered or mailed, and, if a hearing is desired, a written request for hearing must be made before the ten-day period expires. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- (1) The last known registered owner of the nuisance;



- (2) Each lienholder 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 the public right-of-way, the property adjacent to the right-of-way.

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

(d) Upon request for a hearing as provided herein, a public hearing shall be held before the municipal court of the city for determination of the existence of a junked vehicle as a public nuisance and for the purpose of entering an order requiring removal of the junked vehicle or junked vehicle part as a public nuisance. Where a request for a hearing has not been made, the judge of the municipal court, if shown a public nuisance exists, may enter an order requiring the removal of the vehicle or vehicle part as a public nuisance. The order requiring the removal of the vehicle or vehicle part must include a description of the vehicle and the vehicle identification number and license number of the vehicle if the information is available at the site.

(e) Notice shall also be given to the state department of transportation not later than the fifth day after removal. 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 (V.T.C.A., Transportation Code, chapter 501).

(f) Where the vehicle is declared a public nuisance by the municipal court judge and is ordered to be removed, it shall not thereafter be reconstructed or made operable.

(g) This section does not apply to 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; 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 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, rapidly growing trees, shrubbery or other approved means.

(h) This section shall be administered by regularly salaried, full-time employees of the city, except that removal of a vehicle or part thereof from public or private property or the public right-of-way may be by any other duly authorized person under the direction of the city.

(i) The person designated by the city and authorized to administer the procedures of this article may enter upon private property for the purposes specified in these 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 public nuisance. The judge of the municipal court may issue orders necessary to enforce these procedures.

(j) The relocation of a junked vehicle that is a public nuisance to another location within the corporate limits of the city after a proceeding for the abatement or removal of the public nuisance has commenced has no effect on the proceedings if the junked vehicle constitutes a public nuisance at the new location.

#### **Sec. 8.06.064 Disposal**

A junked vehicle or vehicle part may be disposed of by removal to a scrapyards, demolisher or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of section 8.06.063. Upon proper authorization by the city council, the city may operate a disposal site if the city council determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of the vehicles or vehicle parts, or the city may transfer the vehicle or vehicle parts to another disposal site if the disposal is only as scrap or salvage.

(Ordinance adopting Code)