

ORDINANCE NO. 261

AN ORDINANCE REPEALING ORDINANCE NO. 249; AN ORDINANCE AND PROCEDURES REGULATING AND PROHIBITING JUNK, ABANDONED, INOPERATIVE, UNREGISTERED, UNINSPECTED MOTOR VEHICLES WITHIN THE CITY LIMITS OF THE CITY OF SOUTHMAYD; DECLARING JUNK VEHICLES A PUBLIC NUISANCE; NOTICE TO ABATE; DISPOSAL; ENFORCEMENT OF PROVISIONS OR STATE LAWS; AND PROVIDE A PENALTY NOT EXCEEDING \$200.00 PER VIOLATION PER DAY FOR MAINTAINING A JUNK VEHICLE AS A PUBLIC NUISANCE.

WHEREAS, the need for governing abandonment of inoperable, unregistered or uninspected vehicles in the City of Southmayd, Grayson County, Texas, exists, and

WHEREAS, it is detrimental to the safety and welfare of the general public, tends to reduce value of private property, invites vandalism, creates fire hazards, constitutes and attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the City of Southmayd for inoperable, unregistered, or uninspected vehicles to remain parked for a period of longer than thirty (30) days, on tracts or lots of land in the City of Southmayd, Grayson County, Texas;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTHMAYD, GRAYSON COUNTY, TEXAS;

SECTION 1

DEFINITIONS

- (a) "Motor Vehicle" means any vehicle that is subject to registration under the Certificate of Title Act (Chapter 501, Transportation Code, or as amended or codified)
- (b) "Junked Vehicle" means a vehicle that is self-propelled and if inoperable and 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 30 consecutive days.
- (c) "Antique Auto" means a passenger car or truck that manufactured in 1925 or before or a passenger car or truck that is at least 35 years old.
- (d) "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.

- (e) "Collector" means the owner of one or more antique or special interest vehicle 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.
- (f) "Demolisher" means a person whose business is converting motor vehicles into processed scrap or scrap metal or to otherwise wrecking or dismantling motor vehicles.

SECTION 2(a)

JUNKED VEHICLE DECLARED TO BE A
PUBLIC NUISANCE

- (1) A junked vehicle, including a part or parts of a junked vehicle, that is located in a place where it is visible from a public place, public right of way, or adjoining properties; 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 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.
- (2) A person commits an offense if that person maintains a public nuisance as determined under this section.
- (3) An offense under this ordinance is a misdemeanor punishable by a fine not to exceed \$200.00 per day, per violation. Criminal prosecution is not the sole remedy to abate a nuisance under this ordinance.
- (4) The Court shall order abatement and removal of the nuisance on conviction.

SECTION 2(b)

AUTHORITY TO ABATE NUISANCES;
PROCEDURES

- (1) For a public nuisance under this article on private property, the City shall give not less than ten (10) days notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten (10) days after the date the notice is mailed, 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 lienholder of record, and the owner or occupant of the private premises on which the public nuisance exists. 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, hand delivered. If any notice is returned undeliverable by the United States

Postal Service, official action to abate the public nuisance shall be continued to a date not less than eleven (11) days after the date of return.

- (2) For a public nuisance under this article on public property, the City shall give not less than seventy two (72) hours, stating the nature of the public nuisance on public property or on a public right of way, that the public nuisance must be removed and abated within seventy two (72) hours after notice is posted on the public nuisance.

SECTION 2(c)

HEARING

- (1) A public hearing before the removal of the vehicle or vehicle part as a public nuisance shall be held before the Municipal Judge of the City of Southmayd 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, not earlier than eleven (11) days after service or notice to abate the nuisance.
- (2) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (3) After such hearing, the Municipal Judge of the City of Southmayd may issue an order requiring the removal of such nuisance. An order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct vehicle identification number and license number of the vehicle if the information is available at the site. Further, the City may, at any time, file suit in a court of competent jurisdiction to enforce this ordinance.

SECTION 2(d)

RECONSTRUCTION

After a vehicle has been removed, it shall not be reconstructed or made operable.

SECTION 2(e)

NOTICE TO TxDot

Notice shall be given by the City to the state department of transportation within five (5) days after the date of removal identifying the vehicle or part thereof pursuant to this article. The department shall forthwith cancel the certificate of title to such vehicle pursuant to the Certificate of Title Act, as amended or codified.

SECTION 2(f)

EXCEPTIONS

This ordinance 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 a licensed vehicle dealer or licensed junkyard, or,
- (3) An unlicensed, operable, or inoperable antique vehicle or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor 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, rapid growing trees, shrubbery or other appropriate means.

SECTION 2(g)

ADMINISTRATION/ENFORCEMENT

Any designated employee or agent of the City of Southmayd shall administer this ordinance, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.

SECTION 3

REMOVAL OF NUISANCE OR VEHICLE

- (a) A junked vehicle or part may be disposed of by removal to a scrap yard, demolisher, or any suitable site operated by a city or county for processing as scrap or salvage, which process shall be consistent with all other applicable ordinances of the City of Southmayd, and all applicable statutes of the State of Texas and the United States of America. The City of Southmayd may operate such a disposal site when the City Council of the City of Southmayd determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or vehicles parts, or the City of Southmayd may transfer such vehicles or vehicles parts to another, provided such disposal shall be only as scrap or salvage, consistent with all other applicable ordinances of the City of Southmayd, all applicable statutes of the State of Texas and the United States of America.
- (b) A junked vehicle or vehicle part removed from private or public property and which is disposed of to a demolisher must be transferred to such demolisher on a form that is acceptable to the department of highways and public transportation. The Transfer Receipt stipulates that the disposition of the vehicle is for demolition only and will contain a complete description of the vehicle or vehicle part, including the license number, if ascertainable. The Transfer Receipt must be listed on the demolisher's inventory list and surrendered to the State Department of Highway and Public Transportation in lieu of the Certificate of Title Act.

SECTION 4

ENTRY ON PRIVATE PROPERTY

Any person authorized by the City of Southmayd to administer the procedures of this ordinance may enter upon private property for the purposes specified in the ordinance to examine vehicle and vehicle parts, 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 pursuant to the ordinance. The Municipal Judge of the City of Southmayd shall have authority to issue all orders necessary to enforce such ordinance. Further, at the discretion of the City Council, an action may be filed in a court of competent jurisdiction to enforce this ordinance.

SECTION 5

VIOLATIONS; PUNISHMENT

In addition to any of the foregoing, any person who violated any part of the hereto ordinance shall be subject to a fine of not more than \$200.00 for violating any provisions hereof, and each day such vehicle is left abandoned inoperable, unregistered or uninspected after the thirty (30) day notice period shall constitute a separate violation.

SECTION 6

GENERAL

It is the intention of the City Council of the City of Southmayd, Texas, that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council of the City of Southmayd, Texas, that if any provisions of this ordinance are declared invalid or unconstitutional, all other provisions thereof shall remain valid, enforceable and constitutional. This ordinance may not be read as conflicting with the laws governing abandoned vehicles as described in Chapter 683 or the Transportation Code or laws authorizing the immediate removal of a vehicle left on public property that is an obstruction to traffic.

SECTION 7

REPEALS OF OTHER RELATED ORDINANCES

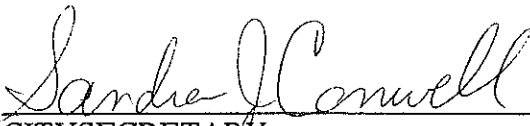
All existing ordinances of the City of Southmayd, Texas relating to junk vehicles are hereby repealed insofar as they may be inconsistent with the provisions of this ordinance.

PASSED AND APPROVED THIS 20 DAY OF MARCH, 2000



MAYOR

ATTEST;



CITYSECRETARY