

JUNKED VEHICLES

Sec. 12-23. Definitions.

Words and phrases used in this article shall have the meanings set forth in this section. Words and phrases which are not defined in this section but are defined in other provisions of the City of Brenham Code of Ordinances shall be given the meanings set forth in those provisions. 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 article.

City shall mean the City of Brenham, Texas, an incorporated municipality located in Washington County, Texas.

Demolisher means any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles.

Junked vehicle means a vehicle as defined in the Texas Transportation Code, Section 683.071, as amended, that is self-propelled and:

- (1) Does not have lawfully attached to it:
 - a. An unexpired license plate; and
 - 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:
 1. Seventy-two (72) consecutive hours, if the vehicle is on public property; or
 2. Thirty (30) consecutive days, if the vehicle is on private property.

Officer means any person designated by the city as authorized to investigate and enforce suspected violations of city ordinances or regulations. The term may include the chief of police, a police officer, the city health officer, or another person so designated by the city manager. (Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-24. Public nuisance.

Junked vehicles, including parts of a junked vehicle, that are visible at any time of the year from a public place or public right-of-way, are detrimental to the safety and welfare of the

general public; tend to reduce the value of private property; invite vandalism; create fire hazards; constitute an attractive nuisance creating a hazard to the health and safety of minors; and are detrimental to the economic welfare of the state and city by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the State of Texas. As such, these vehicles are, therefore, declared to be a public nuisance.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-25. Nuisance prohibited.

It shall be unlawful for any person, individual, entity, company or corporation to maintain, possess, or locate any junked vehicle or parts or portion thereof, within the City of Brenham, in violation of this article.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-26. 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;
- (3) Be signed by the complainant; and
- (4) Be filed with the city secretary, municipal court clerk, police chief, police officer, or health officer.

(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.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-27. Notice of 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 within ten (10) days; and further that a request for a hearing must be made within ten (10) days of receipt of the notice. The notice must be mailed, by certified or registered mail, with a five-day return requested 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 a public right-of-way, the property adjacent to the right-of-way.
- (b) The notice must state that:
 - (1) The nuisance must be abated and removed not later than the tenth day after the date on which the notice was mailed or personally delivered; and
 - (2) Any request for a hearing must be made before that ten-day period expires.
- (c) 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) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh day after the date of the return.
- (e) A public hearing must be held, prior to the removal of the vehicle or the part thereof as a public nuisance, before a 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 day after service of notice to abate the nuisance. At a hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicles:
 - (1) Description;
 - (2) Vehicle identification number; and
 - (3) License plate number.
- (f) If, after written notice has been given, as described in this section 12-27, and continuing through the hearing, the owner relocates the junked vehicle, or a part thereof, to another location in the City of Brenham, Texas or in Washington County, the relocation has no effect on the hearing if the vehicle, or a part thereof, constitutes a public nuisance at the new location.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-28. Order by judge.

(a) After the hearing is held by a 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 article for any such person to whom such order is given to fail or refuse to comply therewith to remove such junked vehicle within the time provided by said order.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-29. 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.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-30. Vehicles not to be made operable.

After a vehicle has been removed in accordance with or under the terms and provisions of this article, it shall not be reconstructed or made operable.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-31. 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 so removed.
(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-32. Exemptions.

- (a) This article shall not apply to a vehicle or vehicle part:
 - (1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
 - (2) 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 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:
 - a. Maintained in an orderly manner;

- b. Not a health hazard; and
- c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(b) As used in this article:

Antique vehicle means a passenger car or truck that is at least twenty-five (25) years old.

Motor vehicle collector means a person who:

- (1) Owns one (1) or more antique or special interest vehicle; 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.

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.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-33. Administration.

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

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-34. 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 may, if said nuisance has not been abated, remove or cause to be removed the vehicle which was the subject of such notice or order to a scrap yard, motor vehicle demolisher, or a suitable disposal site.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-35. Enforcement.

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

(b) Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding two hundred dollars (\$200.00). Each day that a provision of this article is violated shall constitute a separate offense.

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

- (1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;
- (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 article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and

(3) Other available relief.
(Ord. No. O-09-12, § 1, 6-18-09)

Secs. 12-36--12-44. Reserved.