

AN ORDINANCE 100203

AMENDING CHAPTER 19, ARTICLE X OF THE CITY OF SAN ANTONIO'S CITY CODE, ENTITLED "JUNKED VEHICLES," THEREBY REPEALING ORDINANCE 69456 AND SECTION 2 OF ORDINANCE 76464, TO PROVIDE FOR COMPLIANCE WITH THE LEGISLATIVE UPDATES BY IMPLEMENTING MORE RESTRICTIVE DEFINITIONS OF JUNKED VEHICLES; DISPENSING WITH THE \$50.00 FEE FOR A MOTOR VEHICLE HEARING; REDUCING THE MAXIMUM FINE FOR CONVICTIONS TO \$200.00 AND SETTING THE MINIMUM FINE OF \$100.00 FOR SUBSEQUENT CONVICTIONS; AND DIRECTING PUBLICATION.

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WHEREAS, junked vehicles constitute health and safety hazards to the citizens of San Antonio who come into contact with such vehicles, and invite vandalism and other illegal activities; and

WHEREAS, on May 6, 1989, City Council passed Ordinance 69456 to set out procedures to abate junked vehicles with the City; and

WHEREAS, legislative changes have occurred since the passage of Ordinance 69456 regarding junked vehicles; and

WHEREAS, it is necessary to amend the City Code in order to bring it in line with the new statutory provisions of the Texas Transportation Code sections 683.071 through 683.078; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Ordinance 69456, passed and approved on May 11, 1989, and Section 2 of Ordinance 76464, passed and approved on September 10, 1992 are hereby repealed.

SECTION 2. Sections 19-356 through 19-369 of the City Code are hereby deleted as follows:

~~Sec. 19-356. Definitions.~~

~~As used in this Article X, "junked vehicle" shall mean:~~

~~(a) — A motor vehicle in ordinary public view which is inoperative or is no longer usable for the purpose for which it was manufactured, and which does not have affixed thereto one of the following: (1) an unexpired license plate, or (2) a valid motor vehicle safety inspection certificate; or~~

~~(b) — A motor vehicle in ordinary public view which remains mechanically inoperative for a continuous period of forty five (45) days. "In ordinary public view" shall mean that the vehicle or part thereof or the tarp or cover thereon is visible from any public right-of-way, or adjacent land or the first floor level of a building thereon, which is owned or occupied by a person other than the owner or occupant of the property on which the junked vehicle or part thereof is located or parked.~~

~~**Sec. 19-357. Keeping of junked vehicles in public view prohibited; declaration as public nuisance.**~~

~~It shall be unlawful for the owner or occupant of any premises within the city to keep or to permit other persons to keep any junked vehicle or parts thereof on said premises in ordinary public view. Said junked vehicles are hereby declared to be a public nuisance.~~

~~**Sec. 19-358. Motor vehicle hearing officer's powers and duties; appointed by city manager.**~~

~~(a) — The hearing officer shall be appointed by the city manager, and shall review documentation, photographs, and the verbal testimony of witnesses and declare the subject vehicle to be or not to be a junked vehicle.~~

~~(b) — The hearing officer shall issue an administrative order to remove a vehicle determined to be a junk vehicle, a signed copy of which shall be mailed to or handed to the interested parties who attended the hearing. A description of the vehicle, its location, and the identification number and license number if available, shall be included in the order.~~

~~**Sec. 19-359. Duty of enforcement.**~~

~~The provisions of this article shall be administered and enforced by regularly salaried, full-time employees of the city, except that removal of vehicles or parts thereof from any private premises may be towed away by any duly authorized contractor to an licensed scrap yard or demolisher. The municipal courts director shall provide vehicle registration data to the code compliance manager as needed to effectively and timely enforce this Article X.~~

~~**Sec. 19-360. Notice to abate.**~~

~~The code compliance manager shall notify the owner or the occupant of any premises upon which is located a junked vehicle, and the last known registered owner of the junked vehicle of the city's requirement to abate and remove the~~

~~same. A vehicle description, including identification number and license plate number, if available, shall be included in the notice.~~

~~Sec. 19-361. Contents of notice.~~

~~(a) The notice required to be sent by section 19-360 shall:~~

~~(1) Be in writing; and~~

~~(2) State the nature of the public nuisance and that it must be removed and abated within ten (10) days after receipt of notice; and~~

~~(3) State that a request for hearing to determine whether or not the motor vehicle is a junked vehicle as defined herein must be submitted to the code compliance manager or a designated agent before the expiration of ten (10) days after receipt of such notice; and~~

~~(4) State that in the event no request for a hearing is received, the vehicle or vehicle parts, and any items of personal property in the vehicle, shall be presumed to be abandoned junk, and to constitute a public nuisance requiring immediate removal and disposal by the code compliance manager.~~

~~(b) The notice may be served personally or by certified or registered mail, with a five-day return receipt requested. If the notice is returned undelivered by the U.S. Postal Service, abatement by the city may proceed not less than ten (10) days after the date of such return.~~

~~Sec. 19-362. Prosecution for failure to comply with notice to remove.~~

~~If the registered owner of the junked vehicle or occupant or owner of the premises so notified does not request a public hearing and either fails or refuses to comply with notice of the code compliance manager within the ten-day period specified, the code compliance manager or his delegate may cause criminal charges to be filed against such person in the municipal courts, and shall cause the subject junked vehicle to be towed to any licensed demolisher or scrap metal dealer.~~

~~Sec. 19-363. Prima facie evidence.~~

~~Evidence that a vehicle in public view has not been driven under its own power for a period of forty-five (45) days or more shall constitute prima facie evidence that said vehicle was inoperative for the same period.~~

~~Sec. 19-364. Motor vehicle hearing.~~

~~(a) The owner or occupant of any premises on which a junked vehicle is located, or the last known registered owner, may within ten (10) days after receipt of notice to remove or abate same, submit a written request, to the code~~

~~compliance director or his agent, along with a fifty dollar (\$50.00) hearing fee, for a date and time to appear before the motor vehicle hearing officer to present evidence that the motor vehicle is not a junked motor vehicle.~~

~~(b) The hearing shall be administrative in nature. A record shall be made which shall include:~~

~~(1) The names of witnesses appearing before the board.~~

~~(2) A description of the vehicle and any identifiable personal property therein.~~

~~(3) The identification number and most recent license number, if available.~~

~~(4) The decision of the hearing officer as to whether or not the vehicle is in fact a junked vehicle.~~

~~(c) Upon determination by the hearing officer that the motor vehicle is a junked vehicle, the owner or occupant of the premises upon which the motor vehicle is located shall be ordered to remove the vehicle within ten (10) days or, if hardship is found to exist, within thirty (30) days.~~

~~Sec. 19-365. Post-hearing violator prosecuted; vehicle towed.~~

~~If, after a motor vehicle hearing, any person so ordered fails to remove the junked vehicle within the period specified at the hearing, the hearing officer may turn over the record of the case to the chief prosecutor of the municipal courts for consideration of criminal charges, and may cause the removal of the junked vehicle or vehicle part(s) to a demolisher or scrap yard, and dispose of any personal property contents as abandoned property.~~

~~Sec. 19-366. Exceptions to enforcement.~~

~~Nothing in this article shall apply to:~~

~~(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from adjacent property, or public right-of-way.~~

~~(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 junkyard; or~~

~~(3) An unlicensed or licensed operable or inoperable, over thirty five (35) years old antique vehicle or design modified or mechanically enhanced vehicle or a special interest vehicle kept by a collector on the collector's property and preserved because of its historic interest to nationally organized hobbyists provided that:~~

~~a. The vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health or safety hazard; and~~

~~b. The vehicles are screened from ordinary public view, including the view from all adjacent property, by means of a fence, rapidly growing trees, shrubbery or other effective means; and~~

~~e.—The vehicles are kept on parking pads of either asphalt, concrete, or gravel at least two (2) inches above ground level with permanent curbing to define the parking pad boundaries, which must be of greater length and width than the vehicles;~~

~~d.—No more than one such vehicle is kept per two thousand (2,000) square feet of unroofed yard where a vehicle may be legally parked.~~

~~(4)—A vehicle or part thereof which is stored or parked on private property in connection with the business of a licensed wrecker service, in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence or other effective means.~~

~~Sec. 19-367. State to be notified of each removal; reconstruction prohibited.~~

~~(a)—Notice shall be given to the state department of highways and public safety that a junked vehicle has been removed within five (5) days after the removal of such junked vehicle as provided in this article, identifying the vehicle or part thereof removed, as required by Article 4477-9a(f) of Texas Civil Statutes.~~

~~(b)—After a junked vehicle has been removed under the provisions of this article, it shall not be reconstructed or made operable.~~

~~Sec. 19-368. Interference with inspection and removal prohibited.~~

~~It shall be unlawful for any person to knowingly or intentionally interfere with or attempt to prevent the lawful examination and identification of a vehicle pursuant to this article, or to knowingly or intentionally interfere with or attempt to prevent the removal of a junked vehicle from private or public property pursuant to the terms of this article. A police officer shall be present at the time of inspection and at the time of removal if requested by the code compliance manager. A city of San Antonio municipal court magistrate may issue search warrant orders necessary to enforce the procedures established by this article involving entry on to private property.~~

~~Sec. 19-369. Penalty.~~

~~(a)—It shall be unlawful to do or perform any act prohibited hereby, and it shall be unlawful to fail to do or perform any act required hereby. Upon conviction of any violation hereof, the defendant shall be punished by a fine not to exceed two thousand dollars (\$2,000.00). Each day shall constitute a separate and distinct violation.~~

~~(b)—It shall be an affirmative defense to any prosecution under this provision that the notice required by section 19-360 of this article was not given to the defendant prior to the commencement of the criminal prosecution.~~

SECTION 3. Sections 19-356 through 19-364 of Article X, entitled “Junked Vehicles”, of Chapter 19 of the City Code are hereby added to read as follows:

ARTICLE X. JUNKED VEHICLES

Sec. 19-356. Definitions.

Antique Vehicle means a passenger car or truck that is at least 25 years old.

Junked Vehicle means a vehicle that is self-propelled or was manufactured to be self-propelled, or any part thereof, in ordinary public view, which remains inoperable for a continuous period of (10) ten days.

Inoperable means a vehicle that is in such condition at the time of inspection, that it is no longer usable for the purpose for which it was manufactured, regardless of the potential for repair or restoration. If the vehicle is wrecked, dismantled or partially dismantled it is presumed to be inoperable.

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.

Ordinary Public View means a vehicle or any part thereof or the tarp or cover thereon is visible at any time of the year from any public right-of-way, or adjacent land or the first floor level of a building thereon, which is owned or occupied by a person other than the property owner or occupant of the property on which the vehicle is located or parked.

Property owner means the owner of any premises, as listed in the real property tax records of the City on which the junked vehicle is located.

Scrapyard shall include salvage yards as defined by this Code.

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.

Sec. 19-357. Declaration of junked vehicle to be a 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:

- (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 and safety of minors;

- (6) produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (7) is a public nuisance.

Sec. 19-358. Offense.

(a) A person commits an offense if the person maintains a public nuisance as described by Sec. 19-357.

(b) An offense under this Article is a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00). In the event, a defendant has once previously been convicted under this article; the defendant shall be fined an amount not less than one hundred dollars (\$100.00) for each conviction thereafter. Each day a violation is permitted to exist shall constitute a separate offense.

(c) Upon conviction, the court shall order abatement and removal of the nuisance within 10 calendar days of conviction.

(1) The person convicted shall be responsible for the removal and abatement as provided in Sec. 19-363(b) and shall provide verification of the abatement and removal within 14 calendar days of conviction.

(2) Should the convicted person fail to remove the nuisance within the time allowed, the City shall remove and abate the nuisance without further notice to any party and shall recover all costs for the removal and abatement in the manner provided in this Article.

Sec. 19-359. Authority to abate nuisance.

A junked vehicle or part of a junked vehicle as a public nuisance may be abated and removed from a private or public property or a public right-of-way if the following procedures are followed:

(a) A person authorized to administer the procedures to abate and remove the nuisance may enter private property to:

- (1) examine a public nuisance,
- (2) obtain information to identify the nuisance, and
- (3) remove or direct the removal of the nuisance.

(b) A public hearing shall be provided before removal of the public nuisance if requested in writing by a person to whom notice is required under Sec. 19-361(a)(3).

(c) The Municipal court may issue necessary orders to enforce the procedures of this Article.

(d) Procedures for abatement and removal of a public nuisance must be administered by regularly salaried, full-time employees of the municipality or county, except that any authorized person may remove the nuisance.

Sec. 19-360. Commencement of abatement proceedings

(a) The proceeding for abatement and removal of a public nuisance under this Article shall be commenced upon the sending of the notice as prescribed by this Article.

(b) Relocation of a public nuisance to another location within the city limits, after a proceeding for the abatement and removal of the public nuisance has commenced, shall have no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

Sec. 19-361. Notice to abate.

(a) Notice for abatement and removal of a public nuisance under this Article must provide not less than 10 days notice of the nature of the nuisance. The notice must be personally delivered or sent by certified 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 10th day after the date on which the notice was personally delivered or mailed; and
- (2) any request for hearing must be in writing and be made before the 10-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.

Sec. 19-362. Abatement hearing.

(a) If a person for whom notice is required under Sec. 19-361(a) (3) requests a hearing, the public hearing shall be held no earlier than the 11th day after the date of the service of notice.

(b) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(c) The Court shall issue an order or resolution following the conclusion of the hearing.

(d) A resolution or order requiring the removal of the nuisance must:

(1) prohibit the vehicle from being reconstructed or made operational after removal;

(2) require that, not later than the fifth day after the date of removal, notice identifying the vehicle or part thereof be given to the appropriate state agency or department for the cancellation of the certificate of title issued for the vehicle.

(3) include if the information is available at the location of the nuisance, the vehicle's:

(A) description;

(B) vehicle identification number; and

(C) license plate number.

Sec. 19-363. Removal and Disposal of Nuisance.

(a) The ordered removal of a public nuisance by the Court may be done by any person or entity so authorized by the City Manager, Police Department, or Code Compliance Department.

(b) A junked vehicle, including a part of a junked vehicle, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by the City or County.

(c) If the City or County determines that commercial disposition of junked vehicles is not available or is inadequate, the City or County may:

(1) finally dispose of a junked vehicle or vehicle part; or

(2) transfer it to another disposal site if the disposal is scrap or salvage only.

(d) Any proceeds from the transfer of the junked vehicle or part thereof to the site authorized by this Section shall be used to reimburse the City for all costs

incurred in the notification, investigation, hearing, and disposal procedures (including any and all variable towing and disposal fees from contracted sources) within this Article. Any remaining proceeds shall be transferred to the lienholder of record or, if none, the owner of record.

(e) The vehicle may not be reconstructed or made operable after removal.

Sec. 19-364. Exceptions.

The procedures and penalties authorized by this Article shall not apply to a vehicle or vehicle part that is:

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

(2) 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 vehicle or a special interest vehicle, stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outside 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.

Secs 19-365 – 19-385 Reserved

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, or any appendix thereof, for any reason, be held illegal, inoperative, or invalid or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5 No other provision of the City Code is amended hereby. All other provisions shall remain in effect.

SECTION 6. It is officially found, determined, and declared that the meeting at which this ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Texas Revised Civil Statutes Annotated as amended Title 5, Chapter 551, Government Code.

SECTION 7. The City Clerk is directed to publish notice of this ordinance in accordance with Section 17 of the City Charter.

SECTION 8. The publishers of the City Code are authorized to amend said Codes to reflect the changes adopted herein.

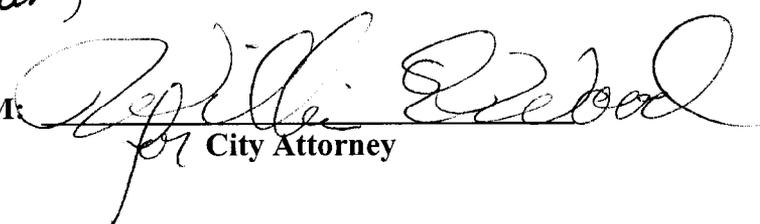
SECTION 9. This ordinance shall become effective January 15, 2005, but in no case less than five days from the date of publication.

PASSED AND APPROVED this 16th day of December 2004.



M A Y O R
EDWARD D. GARZA

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney

Agenda Voting Results

Name: 59.

Date: 12/17/04

Time: 12:59:21 AM

Vote Type: Multiple selection

Description: An Ordinance amending Chapter 19, Article X of the City of San Antonio's City Code, entitled "Junked Vehicles," thereby repealing Ordinance No. 69456, and Section 2 of Ordinance No. 76464, to provide for compliance with the legislative updates by implementing more restrictive definitions of junked vehicles, dispensing with the \$50.00 fee for a Motor Vehicle Hearing; reducing the maximum fine for convictions to \$200.00 and setting the minimum fine of \$100.00 for subsequent convictions; and directing publication. [Presented by Martin G. Rodriguez, Director, Code Compliance; Jelynn LeBlanc Burley, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7	Not present			
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		