

**ORDINANCE NO. 2010-4**

**AN ORDINANCE OF THE TOWN OF SAN FELIPE, TEXAS AMENDING ARTICLE 7.100, "JUNKED AND ABANDONED VEHICLES", TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE TOWN OF SAN FELIPE, TEXAS BY PROVIDING FOR THE REMOVAL AND STORAGE OF ABANDONED AND JUNKED VEHICLES LOCATED IN THE TOWN OF SAN FELIPE, TEXAS; PROVIDING FOR NOTICE TO BE GIVEN TO THE OWNER AND/OR LIENHOLDER AND IF NECESSARY, PROVIDING FOR PUBLICATION OF SAID NOTICE; DECLARING THE JUNKED VEHICLE A NUISANCE, GIVING NOTICE OF THE NUISANCE NOTICE TO THE STATE TRANSPORTATION DEPARTMENT; PROVIDING FOR DISABLING AND DISPOSING OF JUNKED VEHICLES; PROVIDING FOR CERTAIN EXCEPTIONS; PROVIDING FOR PENALTIES; AND PROVIDING FOR SEVERABILITY.**

**WHEREAS**, there exist in the Town of San Felipe, Texas abandoned and junked vehicles; and

**WHEREAS**, the presence of abandoned and junked vehicles in the Town of San Felipe, Texas constitutes a menace to the health, safety, welfare and reasonable comfort of our citizens; and

**WHEREAS**, in the absence of corrective measures, the presence of abandoned and junked vehicles may cause a deterioration of social values, a curtailment in investment and tax revenue, and an impairment of economic values in the city; and

**WHEREAS**, it is expressly provided under provisions of the Texas Transportation Code, Chapters 683.002 *et seq.* and 683.071 *et seq.* (the "Statute"), that a city may adopt an ordinance that requires the removal of abandoned and junked vehicles; and

**WHEREAS**, it is expressly provided by the provision of the Statute that the governing body of a city, after proper notice, may charge against the owner of an abandoned or junked vehicle the expenses incurred by the city to remove and store such vehicle, may auction any unclaimed abandoned or junked vehicle, and may recover the expenses of removal and storage of an abandoned or junked vehicle incurred by the city from the proceeds of the auction.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF SAN FELIPE, TEXAS:**

I.

Article 7.100 "Junked and Abandoned Vehicles" is hereby amended to read in its entirety:

**ARTICLE 7.100 JUNKED AND ABANDONED VEHICLES**

**Sec. 7.101 Definitions**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this paragraph:

Abandoned Motor Vehicle. For the purposes of this article, a motor vehicle is abandoned if the motor vehicle:

- (1) is operable, 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 Texas Turnpike Authority or a controlled access highway.

Demolisher. Means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Garagekeeper. Means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

Junked Vehicle. Means a motor vehicle that is self-propelled and:

- (1) does not have lawfully attached to it:
  - (A) an unexpired license plate; or
  - (B) a valid motor vehicle inspection certificate, and
- (2) is wrecked, dismantled or partially dismantled, or discarded; or

(a) A junked vehicle that is located in a place where it is visible 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 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.

The provisions of this section 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 the business of a licensed vehicle dealer or junkyard; or
- (3) 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, trees, shrubbery, or other appropriate means.

(b) A person commits an offense if that person maintains a public nuisance as determined under this section. An offense is punishable by a fine not to exceed \$200. The court shall order abatement and removal of the nuisance on conviction.

#### **Sec. 7.107 Procedure For Abating Nuisance**

(a) For a nuisance on private property, not less than ten (10) days notice is required stating the nature of the public nuisance on private property, that is it must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice shall be sent, by certified mail, with a five (5) day return requested, to:

- (i) the owner or occupant of the private premises on which the public nuisance exists;
- (ii) the last known registered owner of the nuisance; and
- (iii) each lienholder of record of the nuisance.

If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

(b) For a nuisance on public property or within the public right of way, not less than ten (10) days notice is required stating the nature of the public nuisance on public

property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice shall be sent, by certified mail, with a five (5) day return requested, to:

- (i) the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists;
- (ii) the last known registered owner of the nuisance; and
- (iii) each lienholder of record of the nuisance.

If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

(c) A vehicle removed under these procedures shall not be reconstructed or made operable after it has been removed.

(d) A public hearing is required before the removal of the vehicle or vehicle part as a public nuisance. The hearing shall be held before the city council or an official of the city, designated by the city council, 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, within ten (10) days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(e) Notice shall be given to the State Department of Highways and Public Transportation not later than the fifth (5<sup>th</sup>) day after the date of removal of the vehicle or vehicle part. 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 (Article 6687-1, Vernon's Texas Civil Statutes).

#### **Sec. 7.108 Disposal of Junked Vehicles**

A junked vehicle or vehicle part may be disposed of by removal to a scrapyard, 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 Article 4477-9a, Vernon's Texas Civil Statutes.

#### **Sec. 7.109 Authority To Enforce**

A person authorized by the city to administer the procedures established by this article may request permission to 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 of the city may issue orders necessary to enforce these procedures.

**Sec. 7.110 Removal Of Vehicle As Obstruction To Traffic**

This article does not affect any law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

**Sec. 7.111 Penalty**

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.

**II.**

This Ordinance shall be cumulative of all provisions of ordinances of the Town of San Felipe, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**III.**

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**IV.**

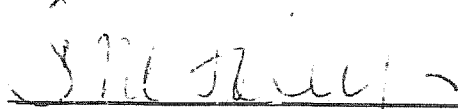
This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

**PASSED AND APPROVED: This the 9<sup>th</sup> day of February 2010.**

TOWN OF SAN FELIPE, TEXAS

BY Bobby B. Baker  
Bobby B. Baker, Mayor

ATTEST:

  
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Sue Foley, *CITY SECRETARY*