

ORDINANCE NO. 2064

AN ORDINANCE OF THE CITY OF SNYDER, TEXAS AMENDING CHAPTER 8, ARTICLE 8.04, SECTION 8.04.001 THROUGH SECTION 8.04.009 AND ADDING SECTIONS 8.04.010 AND 8.04.011, THE ARTICLE OF THE CODE OF ORDINANCES THAT DECLARED JUNKED VEHICLES TO BE A PUBLIC NUISANCE, AND ESTABLISHED PROCEDURES FOR THE ABATEMENT AND REMOVAL OF SUCH PUBLIC NUISANCES, SUPERSEDING AND REPLACING ANY OTHER PRIOR ORDINANCES OR SECTIONS OF PRIOR ORDINANCES RELATED TO JUNKED VEHICLES; PROVIDING DEFINITIONS; DECLARING JUNKED VEHICLES AND PARTS THEREOF LOCATED IN ANY PLACE VISIBLE FROM A PUBLIC PLACE OR PUBLIC RIGHT-OF-WAY PROHIBITED NUISANCES; PROVIDING FOR COMPLAINT; INVESTIGATION; NOTICE; HEARING; REMOVAL; EXPENSES; EXCEPTIONS; ADMINISTRATION; EFFECTIVE DATE; REPEALER; SEVERABILITY; SAVINGS CLAUSE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Snyder ("City Council") seeks to promote the health, safety and general welfare of the City of Snyder ("City") by preventing death, injuries, property damage and urban blight within the City limits; and

WHEREAS, the City Council finds that junked vehicles are conducive to the stagnation of water and promulgation of weeds, thus contributing to infestations of insects, vermin and other threats to the public; and

WHEREAS, the City Council finds that the existence of junked vehicles within the City limits will result in vandalism, fire hazards, hazards to the health and safety of minors and the production of urban blight; and

WHEREAS, the City Council finds that the existence of junked vehicles constitutes a public nuisance that poses a significant and immediate threat to the health, safety and welfare of the citizens of the City and their property; and

WHEREAS, pursuant to Chapter 217 of the Texas Local Government Code, the City has the authority to define what constitutes a nuisance and abate in any manner deemed expedient any nuisance that may injure or affect the public health or comfort; and

WHEREAS, pursuant to Chapter 683 of the Texas Transportation Code, a junked vehicle, including a part thereof, that is visible from a public place or public right-of-way can constitute a public nuisance and the City Council has authority to abate and remove such a nuisance through certain legal and/or administrative proceedings; and

WHEREAS, the City Council of the City of Snyder, Texas has previously passed an Ordinance codified in Code of Ordinances Article 8.04, Junked Vehicle, regulating junked vehicles on private premises within the city limits; and

WHEREAS, the City Council for the City of Snyder, Texas now wishes to update Article 8.04 by amending Article 8.04, Section 8.04.001 through Section 8.04.009 and adding Sections 8.04.010 and 8.04.011;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SNYDER, TEXAS:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

The City Council of the City of Snyder, Texas, hereby approves and adopts this provisions of this Ordinance, attached hereto as Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Sections of the Code shall be renumbered as necessary.

3. REPEALER

All ordinances, resolutions, or parts thereof that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED on first reading this 2nd day of July 2018.

Mayor

ATTEST:

Shai Green

City Secretary

PASSED AND ADOPTED on second reading this 23rd day of July 2018.

Mayor

ATTEST:

Shai Green

City Secretary

ATTACHMENT A

Section 8.04.001
Definitions

Words and phrases used in this ordinance shall have the meanings set forth in this section.

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

City means the City of Snyder, Texas, an incorporated municipality located in Scurry County, Texas.

City Council means the elected City Council of the City of Snyder, 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 that:

- (1) Is self-propelled; 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.

For purposes of this article, "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This article applies only to:

- (1) A motor vehicle that displays an expired license plate or does not display a license plate;
- (2) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. part 47; or
- (3) A watercraft that:
 - (A) Does not have lawfully on board an unexpired certificate of number; and
 - (B) Is not a watercraft described by section 31.055, Parks and Wildlife Code.

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.

Municipal Court means the municipal court of the City.

Code Enforcement Officer means the Code Enforcement Officer or any person designated by the City Council as authorized to investigate and enforce suspected violations of City ordinances or regulations.

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.

**Section 8.04.002
Public Nuisances**

Junked vehicles, including parts of a junked vehicle, which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are, therefore, declared to be a public nuisance.

**Section 8.04.003
Nuisances Prohibited**

It shall be unlawful for any person, individual, company or corporation to maintain, possess, or locate any junked vehicle, or parts or portions thereof, within the City of Snyder in violation of this Ordinance.

**Section 8.04.004
Complaint and Investigation**

(a) The City is hereby authorized to administer the provisions of this Ordinance and, for that purpose, to determine the existence of junked vehicles as nuisances, may enter upon private property to examine vehicles or parts thereof, to obtain information as to the identity of vehicles, and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this Ordinance.

(b) The Municipal Court shall have authority to issue all orders necessary to enforce this Ordinance.

(c) When the City has determined that any motor vehicle, or part thereof, is a junked vehicle, then it shall further determine the name of the owner thereof, if such ownership information is available, and shall determine the name of the owner or occupant of the premises on which the vehicle is located, if it is on private property.

**Section 8.04.005
Notice and Hearing**

(a) The City shall give notice to the owner of the junked vehicle, if the ownership thereof has been determined, and shall give notice to the owner or occupant of the premises on which the vehicle is located, if it is on private property, as follows:

(1) Such notice shall state the nature of the public nuisance.

(2) Such notice shall inform the owner of the vehicle, or the owner or occupant of the premises, as may be applicable, that such public nuisance must be removed and abated within such period of time, not less than ten (10) days, as shall be specified in such notice. In all cases where the alleged public nuisance is located on private property, the notice shall be given to the owner or occupant of such premises, and the notice to the owner of the vehicle shall be in addition thereto when such ownership has been determined.

(3) Such notice shall inform such owner or occupant that, if he shall fail to remove or abate the public nuisance within the time so specified, then such public nuisance will thereupon be removed or abated by official public action, pursuant to the terms of this Ordinance.

(4) Such notice shall be mailed to the last known registered owner of the vehicle, to any lienholder of record, and to the owner or occupant of the premises on which the vehicle is located, by certified mail with a five-day return requested. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any 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.

(5) Such notice shall specify that the person so notified shall be entitled to a public hearing on the question of whether or not such vehicle, or part thereof, is a public nuisance subject to abatement, if the person so notified shall request such public hearing within ten (10) days from the date of mailing the notice. Such request for public hearing may be made in person at the office of the Code Enforcement Officer or may be mailed to the Code Enforcement Officer; but, if mailed, proof of such mailing may be made only by delivery or by registered or certified mail receipt. If a public hearing is requested, such hearing shall be scheduled and held pursuant to the provisions of this Ordinance, and notice of such public hearing shall be transmitted to the owner or occupant by registered or certified mail, not less than ten (10) days before the date of such public hearing.

(b) If the owner of the junked vehicle or the owner or occupant of the premises on which it is located shall, within ten (10) days of the mailing of the notice provided for in this section, give notice in the manner specified in this section that a public hearing is requested, then such public hearing shall be held in accordance with the following:

(1) Such public hearing shall be held before the City Council.

(2) Notice of the date, time and place of the hearing shall be given by certified mail addressed to the owner or occupant entitled thereto at the address given by him in his request for such public hearing, such notice to be mailed not less than ten (10) days before the date of such hearing.

(3) The issue for determination at such hearing shall be whether the alleged junked vehicle is a public nuisance, as defined in this Ordinance and by state law. The burden of proof shall be on the City to prove the existence of such public nuisance, by preponderance of the evidence, in accordance with procedural and evidentiary rules obtaining in administrative hearings in the state.

(4) If the public hearing shall result in a finding that the alleged junked vehicle is a public nuisance, as defined in this Ordinance and by state law, the hearing body shall enter its order or resolution so declaring, and directing the abatement or removal of such public nuisance, either by the owner or occupant, or by public action by or under the direction of the City. Such order or resolution shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available.

(c) If, upon notice as provided in this section, the owner or occupant, as applicable, shall fail or refuse to abate or remove such public nuisance, or if after a finding of public nuisance at the public hearing provided for in this section the owner or occupant shall fail or refuse to abate or remove such public nuisance, then the City shall abate and remove such public nuisance in accordance with the procedures established in this Ordinance.

(d) After a junked vehicle has been removed by public action pursuant to the provisions of this section, it shall in every instance be demolished as scrap or salvage, and it shall not be reconstructed or made operable.

(e) After a vehicle has been removed by public action pursuant to the provisions of this section, then, within five (5) days after such removal, the City shall give notice thereof to the state department of transportation, identifying such vehicle or part thereof, in order that the certificate of title thereto may be cancelled, pursuant to Transportation Code Section 683.074.

Section 8.04.006 Removal

(a) Within 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, within 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 Code Enforcement Officer may, if said nuisance has not been abated,

remove or cause to be removed the vehicle which was the subject of such notice to a scrap yard, or by the sale to a demolisher for the highest bid or offer received therefore, outside of the City.

(b) Such vehicle shall be stored in such storage area for a period of not less than ten (10) days during which period any party owning or claiming any right, title or interest therein shall be entitled to claim possession of same by the payment to the City the actual cost to the City of abating such nuisance.

(c) If there is not a bid or offer for the junked vehicle, the Code Enforcement Officer may dispose of same by causing it to be demolished or removed by a demolisher who is willing to do so for the benefit of the junk or parts he can salvage.

(d) Out of the proceeds of same the Code Enforcement Officer shall pay for the cost of removal and storage and the balance, if any, shall be paid to the person entitled thereto (the City, the owner or lienholder).

Section 8.04.007 Exceptions

This Ordinance shall not apply to a vehicle or vehicle part:

(a) 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

(b) 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:

- (1) Maintained in an orderly manner;
- (2) Not a health hazard; and
- (3) Screened from ordinary public view by a privacy fence at least six (6) feet tall.

Section 8.04.008 Administration and Authority to Enforce

This Ordinance shall be administered by regularly salaried, full-time employees of the city as designated by the City Council, except that the removal of a vehicle from property may be performed by any authorized person. Investigations and enforcement actions may be initiated under this ordinance by the Code Enforcement Officer or his designee. A person authorized by the City to administer the procedures of this article may enter private property for the purposes specified in the procedures of Section 683.074(e), Texas Transportation Code, to examine a vehicle, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle that constitutes a nuisance. The Municipal Court may issue orders necessary to enforce the procedures of this article.

Section 8.04.009 Removal to Non-Complying Location not Abatement of Nuisance

The relocation of a junked vehicle or vehicle part that is a public nuisance to another location in the city after a proceeding for abatement and removal of the public nuisance has commenced by notice has no effect on the proceeding if the junked vehicle or vehicle part constitutes a public nuisance at the new location.

Section 8.04.010 Penalty

- A. A person commits an offense if the person maintains a public nuisance described in this Ordinance.

- B. An offense under this section is a misdemeanor punishable by a fine of not more than two hundred dollars (\$200).
- C. Each day a violation occurs is a separate offense.
- E. The court shall order abatement and removal of the nuisance if the defendant is convicted of an offense under this section.

Section 8.04.011
Provisions Cumulative

The provisions of this article shall be cumulative of ordinances of the city, and nothing herein shall be construed as repealing other ordinances pertaining to abandoned vehicles and junked machinery and motor vehicles.