

ORDINANCE NO. 192

**AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROHIBITING THE STORAGE OF JUNKED OR ABANDONED VEHICLES; DEFINING THE TERM "JUNKED VEHICLE"; DEFINING THE TERM "ABANDONED MOTOR VEHICLE"; PROHIBITING THE SALE OR OFFER OF SALE OF VEHICLES ON CITY STREETS OR ALLEYS OR RIGHTS-OF-WAY; PROVIDING FOR REMOVAL; PROVIDING FOR INVESTIGATION AND HEARING; PROVIDING FOR DISPOSAL; AND PROVIDING PENALTIES FOR VIOLATIONS OF SELLING VEHICLES UPON PUBLIC RIGHTS-OF-WAY.**

WHEREAS, the storage of junked or abandoned vehicles presents an eyesore to the citizens of the City of Magnolia, Texas; and

WHEREAS, the storage of junked or abandoned vehicles diminishes property values to homeowners within the City of Magnolia, Texas; and

WHEREAS, the storage of junked or abandoned vehicles constitutes an attractive nuisance to children at play thereby increasing the danger and hazard to the health and safety of small children; and

WHEREAS, the storage of junked or abandoned vehicles attracts vermin and other foul and obnoxious animals; and

WHEREAS, the storage of junked or abandoned vehicles invites vandalism; and

WHEREAS, the storage of junked or abandoned vehicles is detrimental to the safety and welfare of the general public; and

WHEREAS, the storage of junked or abandoned vehicles creates fire hazards; and

WHEREAS, the storage of junked or abandoned vehicles is detrimental to the economic welfare of the City of Magnolia, Texas by producing urban blight adverse to the maintenance and continuing development of the City; and

WHEREAS, the sale of vehicles on public rights-of-way constitutes a hazard to motorists and traffic in general, and an obstruction to traffic; and

WHEREAS, the storage of junked and abandoned vehicles is specifically declared a nuisance by the City Council of the City of Magnolia, Texas; therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA,  
TEXAS:

Section I.

1. Definitions

As used in this Ordinance the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning:

a. *Antique auto* means a passenger car or truck that was manufactured in 1925 or before, or a passenger car or truck that is at least thirty-five (35) years old.

b. *Collector* means the owner of one (1) or more antique or special interest vehicles 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.

c. *Junked vehicle* means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Texas Revised Civil Statutes):

(1) That is inoperative; and

(2) 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 forty-five (45) days;

provided that the term "junked vehicle" shall not be construed to include:

(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; or

(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, rapidly growing trees, shrubbery, or other appropriate means.

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. *Abandoned motor vehicle* or *Abandoned vehicle* means a motor vehicle that is inoperable and more than five years old and left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within the City of Magnolia, Texas, for more than 48 hours.

f. Any other term whose definition shall come into question concerning the enforcement of this Ordinance shall have the meaning assigned to it by Article 4477-9a, Texas Revised Civil Statutes, or where not assigned, that meaning generally associated with such term, word, or phrase unless context dictates otherwise.

## Section II.

(a) A junked vehicle or part of a junked vehicle that is located in a place where it is visible from a public or private place or right-of-way is subject to removal under this Ordinance.

(b) Other than subsection (d) of this Section, the provisions of this section are not penal. This Ordinance does not preclude prosecution under section 5.08 of Article 4477-9a, Texas Revised Civil Statutes. This Ordinance does not affect the authority of a peace officer under law to authorize the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

(c) The City of Magnolia, Texas, may utilize contractors to perform the work involved in actually removing a junked vehicle and the junked vehicle may be disposed of at a privately operated disposal site.

(d) No person shall park any vehicle, antique, junked, abandoned, or otherwise upon any street, alley, or public right-of-way for the purpose of

displaying such vehicle for sale or washing, greasing or repairing such vehicle, except repairs necessitated by an emergency. A vehicle found in this condition is subject to immediate removal as an obstruction to traffic and the owner thereof is subject to criminal prosecution as provided for in this Ordinance. The owner of any vehicle removed under this section shall have notice provided him or her prior to any destruction or demolishing of said vehicle as provided for by this Ordinance.

### Section III.

(a) Upon receipt of information that a junked vehicle is in such a condition and location that it may be subject to removal under this article, a Magnolia Police Officer or any regularly salaried full time employee of the City of Magnolia shall investigate the facts. In making a determination how long a vehicle or a part of a vehicle has remained inoperable the police officer or person conducting the investigation may rely upon a sworn statement of a person working or residing near the place where the vehicle is situated, who has personal knowledge of the facts, provided that the person is willing to allow the affidavit to be disclosed to the vehicle owners/lien holder and to appear at the hearing, if requested. If it appears that the vehicle or part of a vehicle is in fact subject to removal hereunder the person conducting the investigation shall cause notice of a right to hearing to be given as provided in subsection (b).

(b). In each instance in which it is proposed to remove a vehicle or part of a vehicle under this Ordinance not less than ten (10) days notice shall be given to the persons specified and in the manner specified in subsection (b) or (c), as applicable, of section 5.09 of Article 4477-9a, Texas Revised Civil Statutes.

(c) A hearing on the proposed removal of the vehicle or part of a vehicle shall be conducted by the City Council of the City of Magnolia, Texas. If the Council determines that the vehicle or part of a vehicle is subject to removal hereunder they shall cause an order to issue directing it removed. The order shall include the information specified in subsection (e) of section 5.09, Article 4477-9a, Texas Revised Civil Statutes.

### Section IV.

(a) In the event that a hearing results in an order of disposal of the vehicle or part of a vehicle under this Ordinance, then the vehicle shall be removed to a disposal site. The disposal site shall be any scrap yard, demolisher, or any suitable site operated by the City of Magnolia, Texas, or Montgomery County, Texas for processing scrap or salvage.

(b) It shall be unlawful for any person to cause any junked or abandoned vehicle removed under this Ordinance to be reconstructed or made operable after it has been removed.

(c) Each contract let for the removal and disposal of vehicles under this Ordinance shall required the contractor to account for and be responsible to the City for the destruction of each vehicle within a specified time and require that the vehicles be kept and disposed of in such a manner that they may not be reconstructed or made operable.

(d) The City Secretary or Police Chief of the City of Magnolia, Texas shall ensure that notice of the identification or each vehicle of part of a vehicle removed under this Ordinance is given to the Texas Department of Highways and Public Transportation not later than the fifth day following the removal of the vehicle as required under subsection (f) of the section 5.09 of Article 4477-9a, Texas Revised Civil Statutes.

#### Section V.

(a) The Magnolia Police Department may take into custody any abandoned motor vehicle found on public or private property.

(b) The Magnolia Police Department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities to remove, preserve, and store an abandoned motor vehicle it takes into custody.

(c) Should the Magnolia Police Department take into custody an abandoned motor vehicle under this section it shall follow and have available to it all of the rights and privileges found under Sections 5.03, 5.031 and 5.04, Article 4477-9a, Texas Revised Civil Statutes, but must comply with the notice requirements found within that section.

#### Section VI.

Whosoever shall violate Section II (d) of this Ordinance shall be guilty of a Class "C" misdemeanor, and shall, upon conviction, be fined up to but not greater than \$500.00. Any person found guilty of this Ordinance for a second time shall be fined no less than \$100.00. Any person found guilty of this Ordinance for a third or more time shall be fine no less than \$250.00

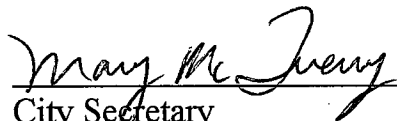
PASSED AND ADOPTED ON ITS FIRST READING THIS 13<sup>th</sup> DAY OF  
DECEMBER, 1993.

Councilwoman Ogden  
Councilman Timmins  
Councilman Smith  
Councilwoman Cloyd  
Councilman Chumley

ABSENT  
AYE  
AYE  
AYE  
NYE

ATTEST:

  
John Bramlett, Mayor

  
City Secretary