

ORDINANCE 2008-01

AN ORDINANCE RELATING TO REGULATION OF ABANDONED AND JUNKED VEHICLES, TRAILERS, WATERCRAFT AND OTHER ABANDONED PROPERTY; PROVIDING FOR FEES; PROVIDING FOR SALE; PROVIDING FOR NOTICE; DECLARING ABANDONED AND JUNKED VEHICLES, TRAILERS, WATERCRAFT AND OTHER ABANDONED PROPERTY A NUISANCE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION AND PROVIDING FOR SEVERANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INGLESIDE ON THE BAY:

City of Ingleside on the Bay Ordinance 1994-11 is hereby repealed

Section 1. TRANSPORTATION CODE; DEFINITIONS.

(a) Chapter 683, Transportation Code is hereby adopted by the City of Ingleside on the Bay. Under the authority of the Texas Transportation Code declaring junked or abandoned vehicles a public nuisance, the City of Ingleside on the Bay hereby establishes the following procedures to abate and remove such junked vehicles or parts thereof from private property or public property under the provisions of this Ordinance including all of the procedures authorized under Chapter 683, Transportation Code.

- (1) "Department" means the Texas Department of Transportation.
- (2) "Garagekeeper" means an owner or operator of a storage facility.
- (3) "Law enforcement agency" means:
 - i. the Department of Public Safety;
 - ii. the police department of a municipality;
 - iii. the police department of an institution of higher education; or
 - iv. a sheriff or a constable.
- (4) "Motor vehicle" means a vehicle that is subject to registration under Chapter 501.
- (5) "Motor vehicle demolisher" means a person in the business of:
 - i. converting motor vehicles into processed scrap or scrap metal; or
 - ii. wrecking or dismantling motor vehicles.
- (6) "Outboard motor" means an outboard motor subject to registration under Chapter 31, Parks and Wildlife Code.
- (7) "Storage facility" includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.
- (8) "Watercraft" means a vessel subject to registration under Chapter 31, Parks and Wildlife Code.
- (9) "Abandoned nuisance vehicle" means a motor vehicle that is at least 10 years old and is of a condition only to be junked, crushed, or dismantled.
- (10) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, Occupations Code, that is operated by a person who holds a license issued under Chapter 2303 of that code to operate that vehicle storage facility.

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Section 2. ABANDONED MOTOR VEHICLE, TRAILER, WATER CRAFT OR OUTBOARD MOTOR

- (a) For the purposes of this ordinance, a motor vehicle, trailer, watercraft or outboard motor is abandoned if the motor vehicle trailer, watercraft or outboard motor:
- (1) is inoperable, 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; or
 - (6) is considered an abandoned motor vehicle under Transportation Code Section 644.153(r).

Section 3. AUTHORITY TO TAKE ABANDONED MOTOR VEHICLE, TRAILER, WATERCRAFT OR OUTBOARD MOTOR INTO CUSTODY.

- (a) A law enforcement agency may take into custody an abandoned motor vehicle, trailer, watercraft, or outboard motor found on public or private property.
- (b) A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, watercraft, or outboard motor taken into custody by the agency under this subchapter.

Section 4. TAKING ABANDONED MOTOR VEHICLE, TRAILER, WATER CRAFT OR OUTBOARD MOTOR INTO CUSTODY: NOTICE.

- (a) A law enforcement agency shall send notice of abandonment to:
- (1) the last known registered owner of each motor vehicle, trailer, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and
 - (2) each lienholder recorded under Chapter 501 for the motor vehicle or trailer, or under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.
- (b) The notice under Subsection (a) must:
- (1) be sent by certified mail not later than the 10th day after the date the agency:
 - i. takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or
 - ii. receives the report under Transportation Code Section 683.031;
 - (2) specify the year, make, model, and identification number of the item;
 - (3) give the location of the facility where the item is being held;
 - (4) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:
 - i. towing, preservation, and storage charges; or

- ii. garagekeeper's charges and fees under Transportation Code Section 683.032 and, if the vehicle is a commercial motor vehicle impounded under Transportation Code Section 644.153(q), the delinquent administrative penalty and costs; and
- (5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:
 - i. a waiver by that person of all right, title, and interest in the item; and
 - ii. consent to the sale of the item at a public auction.

(c) Notice by publication in one newspaper of general circulation in the area where the motor vehicle, watercraft, or outboard motor was abandoned is sufficient notice under this section if:

- (1) the identity of the last registered owner cannot be determined;
- (2) the registration has no address for the owner; or
- (3) the determination with reasonable certainty of the identity and address of all lienholders is impossible.

(d) Notice by publication:

- (1) must be published in the same period that is required by Subsection (b) for notice by certified mail and contain all of the information required by that subsection; and
- (2) may contain a list of more than one abandoned motor vehicle, trailer, watercraft, or outboard motor.

(e) A law enforcement agency is not required to send a notice, as otherwise required by Subsection (a), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to the department for the disposal of the vehicle.

Section 5. JUNKED VEHICLES, TRAILER, WATER CRAFT OR OUTBOARD MOTOR: PUBLIC NUISANCE; ABATEMENT; DEFINITION.

(a) In this section, "junked vehicle" means a vehicle that is self-propelled and:

- (1) does not have lawfully attached to it:
 - i. an unexpired license plate; or
 - ii. a valid motor vehicle inspection certificate; and
- (2) is:
 - i. wrecked, dismantled or partially dismantled, or discarded; or
 - ii. inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if the vehicle is on public property; or
 - (b) 30 consecutive days, if the vehicle is on private property.

(b) In this section, "junked trailer" means a vehicle that is not self-propelled and:

- (1) does not have lawfully attached to it:
 - i. an unexpired license plate; and
- (2) is:
 - i. wrecked, dismantled or partially dismantled, or discarded; or

- ii. inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if the vehicle is on public property; or
 - (b) 30 consecutive days, if the vehicle is on private property.
- (c) In this section, "junked watercraft" means a watercraft
 - (1) does not have a lawful registration and;
 - (2) is:
 - i. wrecked, dismantled or partially dismantled, or discarded; or
 - ii. inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if the watercraft is on public property; or
 - (b) 30 consecutive days, if the watercraft is on private property.
- (d) In this section, "junked outboard motor" means an outboard motor that is
 - (1) does not have a lawful registration and;
 - (2) is:
 - i. wrecked, dismantled or partially dismantled, or discarded; or
 - ii. inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if on public property; or
 - (b) 30 consecutive days, if on private property.

Section 6. JUNKED VEHICLE, TRAILER, WATER CRAFT OR OUTBOARD MOTOR DECLARED TO BE PUBLIC NUISANCE.

- (a) A junked vehicle, trailer, watercraft or outboard motor including a part of a junked vehicle, trailer, watercraft or outboard motor 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.

Section 7. OFFENSE.

- (a) A person commits an offense if the person maintains a public nuisance described by Section 6.
- (b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200 plus court costs.
- (c) The Municipal Court shall order abatement and removal of the nuisance on conviction.

Section 8. AUTHORITY TO ABATE NUISANCE; PROCEDURES.

(a) The city has adopted the procedures in this subsection for the abatement and removal from private or public property or a public right-of-way of a junked vehicle, watercraft or outboard motor, or part of a junked vehicle, trailer, watercraft or outboard motor as a public nuisance.

(b) These procedures:

- (1) prohibit the vehicle from being reconstructed or made operable after removal;
- (2) require a public hearing before removal of the public nuisance; and
- (3) require that notice identifying the vehicle, trailer or part of the vehicle or trailer be given to the department not later than the fifth day after the date of removal.
- (4) require that notice identifying the watercraft or outboard motor or part of the watercraft or outboard motor be given to the Parks and Wildlife Department within a reasonable time.

(c) The Municipal Court of the City may issue necessary orders to enforce the procedures.

(d) Procedures for abatement and removal of a public nuisance must be administered by regular employees of the city, except that any authorized person may remove the nuisance.

(e) The Code Enforcement Officer may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

(f) On receipt of notice of removal under this Subsection (b) (3), the department shall immediately cancel the certificate of title issued for the vehicle or trailer and the Parks and Wildlife Department shall immediately cancel the certificate of title issued for the watercraft or outboard motor.

(g) The relocation of a junked vehicle, trailer, watercraft or outboard motor that is a public nuisance to another location in the city after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle, trailer, watercraft or outboard motor constitutes a public nuisance at the new location.

Section 9. NOTICE.

(a) The procedures for the abatement and removal of a public nuisance under this section provide for not less than 10 days' notice of the nature of the nuisance. The notice will 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:
 - i. the property on which the nuisance is located; or
 - ii. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) The notice will 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 a hearing must be made before that 10-day period expires.

(c) If the post office address of the last known registered owner of the nuisance is unknown, notice will 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 11th day after the date of the return.

Section 10. HEARING.

(a) The Municipal Court shall conduct hearings under the procedures adopted under this ordinance.

(b) If a hearing is requested by a person for whom notice is required under Section 9, the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(c) At the hearing, the junked motor vehicle, trailer, watercraft or outboard motor is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(d) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance will include the vehicle's, trailer's, water craft's or outboard motor's as applicable:

- (1) description;
- (2) vehicle identification number;
- (3) license plate number;
- (4) watercraft identification number; and/or
- (5) outboard motor serial number

Section 11. JUNKED VEHICLE DISPOSAL.

(a) The owner shall dispose, abate and/or remove the nuisance within five (5) calendar days from the date of entry of the order or resolution ordering the abatement and removal of the nuisance. Absent compliance within this time, the City of Ingleside on the Bay shall arrange for the prompt abatement and removal of the nuisance.

(b) A junked vehicle, trailer, watercraft or outboard motor, including a part of a junked vehicle, watercraft or outboard motor may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by the city or county. The City may:

- (1) finally dispose of a junked vehicle, trailer, watercraft or outboard motor or vehicle, watercraft or outboard motor part; or
- (2) transfer it to another disposal site if the disposal is scrap or salvage only.

Section 12. INAPPLICABILITY.

(a) This Ordinance shall not apply to a vehicle, trailer, watercraft or outboard motor or vehicle part, trailer part, watercraft part or outboard motor part that is:

- (1) Completely enclosed in a building in a lawful manner and is not visible from the street or other 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 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:
 - i. Maintained in an orderly manner;
 - ii. Not a health hazard; and
 - iii. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, and/or shrubbery.

(b) In this Section:

- (1) "Antique vehicle" means a passenger car or truck that is at least twenty-five (25) years old.
- (2) "Motor vehicle collector" means a person who:
 - i. Owns one (1) or more antique or special interest vehicles; and
 - ii. 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.
- (3) "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.

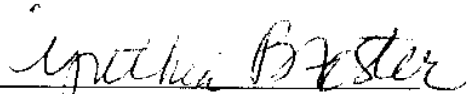
Section 13. REMEDY CUMULATIVE.

The remedies and procedures established in this Chapter are cumulative to any other right, remedy or procedure. Nothing in this Chapter shall affect any rule, regulation, law or ordinance that permits immediate removal of a vehicle left on public property that constitutes an obstruction to traffic.

Section 14.

This ordinance shall become effective after adoption and publication one time in the official newspaper of the City of Ingleside on the Bay.

PASSED this the 15th day of January, 2008.


Cynthia B. Foster, Mayor

ATTEST:


Diane Hosea, City Secretary

**Ingleside on the Bay
Ordinance No. 2008-01**

An ordinance relating to the regulating of abandoned and junked vehicles, trailers, watercraft and other abandoned property; providing for fees; providing for sale; providing for notice; declaing abandoned and junked vehicles, trailers, watercraft and other abandoned prop-erty a nuisance; pro-viding a penalty; pro-viding for publication and providing for severance.

Published in The Ingleside Index on January 23, 2007.

THE STATE OF TEXAS
COUNTY OF SAN PATRICIO:

Before me, the undersigned authority, personally appeared

Clay Morgan

of The Ingleside Index, a weekly newspaper

by me duly sworn, on his oath deposes and said:

1. That (he) ~~(she)~~ is Publisher of The Ingleside Index a weekly newspaper

published in San Patricio County, Texas.

2. That the City of Ingleside on Bay published an

Ordinance # 2008-1

hereto annexed, was published in the regular issues of said Ingleside Index once

each week for One (1) week successive weeks said publication

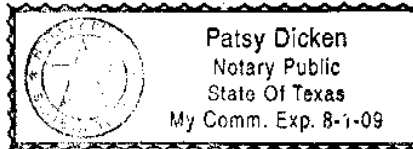
having been made on the January 23, 2008

Notice

3. That a printed copy of said

as the same appeared in said issues is attached hereto

Clay Morgan



Sworn to and subscribed before me this 29th

day of

January

, 20

08

Patsy Dicken
Notary Public, San Patricio County, Texas

PUBLICATION FEE: \$ 24.92