

GALVESTON COUNTY
JUNKED VEHICLE ABATEMENT PROCEDURES

Section 1.01 Scope.

The following Removal Procedures (Procedures) are adopted by the Commissioners' Court of Galveston County, Texas pursuant to the Chapter 683, Subchapter E of Transportation Code of the State of Texas. These Procedures shall apply to the unincorporated areas of Galveston County, Texas.

The Procedures provided for herein are not intended nor shall they be construed to limit, in any way, other remedies, causes of action, rights or penalties provided for by law. It is the intent of the Commissioners' Court that these Procedures may be pursued and enforced independently or concurrently with action for injunctions, actions for damages, criminal proceedings, all other claims, suits and proceedings provided for by law.

Section 1.02 Purpose.

It is the purpose of these Procedures to protect and enhance the desirability and the aesthetic character of residential and commercial neighborhoods in unincorporated areas of Galveston County by identifying and removing junked vehicles. This protects and promotes the health, safety and welfare of the citizens of Galveston County.

Section 1.03 Definitions.

- A. "Abate" means to eliminate by removal, repair, rehabilitation or demolition.
- B. "Administrator" is the Criminal Law Enforcement Bureau Commander of the Sheriff's Office of Galveston County, a regularly salaried, full-time County employee who has been charged with the enforcement of this program. The Bureau Commander may assign any duties imposed under this procedure to full-time employees under his direction.
- C. "Antique vehicle" means a passenger car or truck that is at least 25 years old.
- D. A "junked vehicle" means a 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:
 - 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.
- E. "Motor vehicle collector" means a person who:
- a. Owns one or more antique or special interest vehicles; and
 - b. 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.
- F. "Person" has the meaning assigned to that term by subdivision (2) of Section 311.05 of the Government Code as it presently exists or may hereafter be amended.
- G. "Premises" means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps or other structure appurtenant to the property.
- H. "Public Street" means the entire width between property lines of a road, street, way, thoroughfare or bridge if any part of the road, street, way, thoroughfare or bridge is open to the public for vehicular or pedestrian traffic.

- I. “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 2.01 Junked Vehicles Declared to be a Public Nuisance.

- A. 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.
- B. Exemptions. These procedures and regulation may not apply to a vehicle or vehicle part
1. That is completely enclosed in a building in a lawful manner and is not visisble from the street or other public of private property; or
 2. 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:

- a. Maintained in an orderly manner and is not visible from the street or other public of private property; or
- b. Not a health hazard; and
- c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Section 3.01 Junked Vehicles Prohibited.

A person may not cause, permit or allow a junked vehicle on their premises or public property.

Section 3.02 Administration Procedures.

The Commissioners' Court of Galveston County hereby appoints the Criminal Law Enforcement Bureau Commander of the Sheriff's Office of the County of Galveston, a regularly salaried full-time County employee, as Administrator, to administer this program and the Procedures herein prescribed. Any abatement procedure including removal or demolition of any junked vehicle may be made by any person authorized by the Administrator.

Section 3.03 Abatement Procedures.

- A. Initial Investigation/Notice to Abate.
 - 1. The Administrator shall investigate the complaint and make a determination as to whether a complaints fits within these regulations.
 - a. If the Administrator determines that a junked vehicle does not exist, then the Administrator shall close the matter and take no further action thereon.
 - b. If the Administrator determines that a junked vehicle does exist and that it is not exempted from the requirements of these procedures, the Administrator shall

abide by the notice requirements below.

B. Notice.

1. Recipients - The notice to abate and remove a junked vehicle must provide not less than 10 days notice of the identity of the vehicle. The notice must be personally delivered or sent by certified mail with a five-day return to:

- a. the last known registered owner of the nuisance;
- b. each lien holder of record of the nuisance; and
- c. 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.

2. Contents - The notice must state that:

- a. The nuisance must be abated and removed not later than the tenth day after the date on which the notice was personally delivered or mailed, and
- b. Any request for a hearing must be made to the Administrator before the 10 day period expires.
- c. If a hearing is requested and the vehicle is determined to be “junked vehicle” the party who requested the hearing shall be responsible for all costs incurred by the hearing officer.

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 the notice is returned undelivered, action to abate the junked vehicle shall be continued to a date not earlier than the 11th day after the date of the return.

E. Investigation Determination.

After the expiration of 11 days from the date on which the County's Notice to Abate the Junked vehicle is served, the Administrator shall inspect the premises described in the complaint.

1. If the Administrator determines that the junked vehicle has been abated, the Administrator shall make a record of his findings and take no further action thereon.
2. If the Administrator determines that the junked vehicle has not been abated and a hearing has not been requested, then the Administrator shall do the following:
 - a. Utilize an approved service provider under the County's Contract for Towing Junked Vehicles to have the vehicle properly disposed of, or transferred to a scrapyard, motor vehicle demolisher, or suitable site operated by a governmental unit.
 - b. Send a notice to the Texas Department of Transportation identifying the vehicle or part of the vehicle, not later than the fifth day after the date of removal.
3. If the Administrator determines that the junked vehicle has not been abated and that a hearing has been requested, the Administrator shall file the appropriate documents requesting a hearing in front of the Justice of the Peace whose precinct the vehicle is located. Once a hearing has been scheduled, the Administrator shall send a Notice of Hearing to all parties that were sent the notice to abate. Such notice will be sent in the same manner as used for serving the Notice to Abate the Junked vehicle. The Notice

of Hearing shall state the date, time and place of the hearing.

Section 3.04 Hearing.

A. Hearing

1. The Justice of the Peace whose precinct the vehicle is located is designated to conduct all hearings and issue any necessary orders under these procedures.
2. If a hearing is requested by a person for whom notice is required, the hearing shall be held not earlier than the 11th day after the date of the service of notice.
3. If information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
 - a. Description;
 - b. Vehicle description number; and
 - c. license plate number.

B. Conduct of the Hearing.

1. An Owner or person of interest receiving a Notice to Abate a Junked vehicle under these procedures is entitled to a hearing before the Hearing Officer only if such a hearing is requested.
2. The Owner, interested person and/or their representative(s) shall be entitled to attend the hearing, present testimony and other evidence, examine witnesses, and argue on their behalf.
3. The Administrator and/or his representative shall have the right to attend the hearing, present testimony and other evidence, examine witnesses, and argue on the County's behalf.

4. The Hearing Officer shall be allowed to question any person testifying.
5. All persons testifying at the hearing shall be under oath.
6. The Hearing Officer shall assess the testimony fairly and impartially and in accordance with law.
7. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
8. The Hearing Officer shall:
 - a. Make a written determination as to whether a the vehicle in question is a junked vehicle as defined in these procedures or §683.071 of the Texas Transportation Code;
 - b. Make written determination as to whether or not the vehicle in question is excepted from the abatement requirements under these procedures or §683.077 of the Texas Transportation Code; and
 - c. If applicable order the removal of the vehicle by the individual who requested the hearing. A copy of the written determination shall be sent to the Administrator.

9. Upon the receipt of the copy of the written determination of the Hearing Officer, the Administrator shall, within five (5) working days, send by certified mail, return receipt requested, a copy of the written determination of the Hearing Officer to all persons who to the Owner at the address stated in the Request for Hearing and all interested parties who were required to be served notice and attended the hearing.
- C. Post-Hearing Action.
1. If the hearing results in a determination that a junked vehicle does not exist, the Administrator shall take no further action thereon.
 2. If the hearing results in a determination that a junked vehicle exists, payment of the Hearing Officer's fees, if any, will be assessed as costs. In addition, the Administrator, upon the expiration of 30 days from date of mailing of the Hearing Officer's determination to the Owner will determine whether or not the junked vehicle has been abated.
 - i. If the junked vehicle has been abated, then the Administrator shall make a record thereof and take no further action thereon.
 - ii. If the junked vehicle has not been abated, then the Administrator shall order the removal of the junked vehicle by an approved service provider under the county's agreement for towing junked vehicles.

Section 3.05 Effective Date.

These procedures shall be effective as of April 11, 2005.