

ORDINANCE NO. 605

“Junked and Abandoned Vehicles and Watercraft”

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS REGARDING JUNKED AND ABANDONED VEHICLES AND PROVIDING FOR FINDINGS OF FACT; JURISDICTION; DEFINITIONS; DECLARATION OF PUBLIC NUISANCE AND PROHIBITION; PROCEDURES FOR FILING AND INVESTIGATING COMPLAINTS; EXEMPTIONS; NOTICE AND REMOVAL; PUBLIC HEARING; ADMINISTRATION OF REMOVAL OF VEHICLE; NOTICE TO DEPARTMENT OF MOTOR VEHICLES; RECONSTRUCTION PROHIBITED; RELATION TO OTHER ORDINANCES; EFFECTIVE DATE; ENFORCEMENT INCLUDING A CRIMINAL FINE NOT TO EXCEED \$500.00 OR CIVIL PENALTY OF \$100.00 PER VIOLATION; NO VESTED INTEREST; SEVERABILITY; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Granite Shoals seeks to promote the health, safety and general welfare of the community by preventing death, injury, 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 health, safety and welfare; and

WHEREAS, the City Council finds that the existence of junked and abandoned vehicles within the City limits is detrimental to the public health and safety, tends to reduce the value of private property, invites vandalism, creates fire hazards, is hazardous to the health and safety of minors and produces urban blight; and

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

WHEREAS, pursuant to Texas Local Government Code section 51.001 the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Transportation Code Chapter 683, a junked vehicle, including a part thereof, that is visible from a public place or public right-of-way can be a public nuisance; and

WHEREAS, pursuant to Texas Transportation Code Chapter 683, the City has authority to abate and remove any junked vehicle that constitutes a nuisance; and

WHEREAS, pursuant to Texas Transportation Code Chapter 683, the City has the authority to regulate and dispose of abandoned vehicles; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to adopt an ordinance regulating junked vehicles that constitute public nuisances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRANITE SHOALS, TEXAS, THAT:

SECTION I FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Granite Shoals and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION II REPEAL OF PREVIOUS ORDINANCES

This ordinance hereby repeals and replaces Ordinance Nos. 255 and 255-A, concerning junked and abandoned vehicles.

SECTION III GENERAL PROVISIONS

A. TITLE

This Ordinance shall commonly be referred to as the Junked and Abandoned Vehicle Ordinance.

B. JURISDICTION

The provisions of this Ordinance shall apply within the City limits and within 5,000 feet outside the limits.

SECTION IV DEFINITIONS

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

1. "Abandoned Vehicle" means
 - a. a motor vehicle, outboard motor, or watercraft that:
 - i. is inoperable, is more than five years old, and has been left unattended on public property for more than forty-eight (48) hours;
 - ii. has remained illegally on public property for more than forty-eight (48) hours;
 - iii. has remained on private property without the consent of the owner or person in charge of the property for more than forty-eight (48) hours; or
 - iv. has been left unattended on the right-of-way of a designated county, state, or federal highway for more than forty-eight (48) hours.
2. "Antique vehicle" means a passenger car or truck that is at least 25 years old.
3. "City" means the City of Granite Shoals, County of Burnet, State of Texas, and includes any official, agent or employee acting on behalf of the City.
4. "Council" means the City Council of the City of Granite Shoals.
5. "Code Compliance Officer" means the person or persons officially designated by the City Manager.
6. "Department" means the Texas Department of Motor Vehicles and/or any other state agency or department that cancels a certificate of title issued for a motor vehicle.
7. "Garagekeeper" means any owner or operator of a parking place or establishment, motor vehicle storage facility or any establishment for the service, repair or maintenance of motor vehicles.
8. "Junked vehicle" means:
 - a. a vehicle that is
 - i. manufactured to be self-propelled; and
 - ii. is:

- (A) wrecked, dismantled or partially dismantled, or discarded;
or
 - (B) inoperable and has remained inoperable for more than 72 consecutive hours, if the vehicle is on public property; or 30 consecutive days, if the vehicle is on private property.
- b. For the purposes of this Ordinance, “junked vehicle” includes a motor vehicle, or watercraft, and applies only to:
 - i. a motor vehicle that:
 - (A) does not lawfully display a license plate or a motor vehicle inspection certificate; or
 - (B) displays an expired license plate or invalid motor vehicle inspection certificate; and
 - ii. a watercraft that:
 - (A) does not have lawfully on board an unexpired certificate of number;
 - (B) is not a watercraft described by Section 31.055, Parks and Wildlife Code; and
 - (C) is not a trailer intended and used primarily for the transportation of a watercraft.

9. “Motor vehicle” means a vehicle subject to registration under Chapter 501, Transportation Code.

10. “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.

11. “Outboard motor” means an outboard motor subject to registration under Chapter 31, Parks and Wildlife Code.

12. "Person" means an individual, corporation organization, government agency, business, trust, partnership, association, or any other legal entity.

13. "Police Department" means the City of Granite Shoals Police Department and its duly authorized employees, acting under the general police power authority as vested in such department by the City Council.

14. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, parks, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

15. "Public right-of-way" means the area on, below, above, or adjacent to a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City has an interest.

16. "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.

17. "Watercraft" means a vessel subject to registration under Chapter 31, Parks and Wildlife Code.

SECTION V REGULATION OF ABANDONED VEHICLES

A. AUTHORITY TO IMPOUND ABANDONED MOTOR VEHICLE

1. The Police Department may impound an abandoned vehicle found on public or private property.

2. The Police Department may use its own personnel, equipment and facilities or contract for other personnel, equipment, and facilities for the purpose of removing, preserving, and storing abandoned vehicles impounded by the Police Department.

3. At least forty-eight (48) hours prior to impounding any abandoned vehicle, a police officer shall securely affix a visible, dated notice of abandonment to such vehicle. A record of the date and time such notice was affixed shall be maintained by the Police Department and shall be prima facie proof in any court that (a) such vehicle was left unattended and abandoned for the period of time between the affixing of the notice and the impounding of the item and (b) that the owner of the vehicle caused, allowed, suffered and permitted the motor vehicle to remain at the place where the vehicle was impounded for the period of time between the affixing of the notice and the impoundment of the motor vehicle.

B. OFFENSE

It shall be unlawful for any person to knowingly or intentionally interfere with or attempt to prevent the physical impounding of any abandoned vehicle by the Police Department or its delegate pursuant to the provisions of Chapter 683, Texas Transportation Code, and this Ordinance.

C. NOTICE

1. Not later than the 10th day after the Police Department impounds an abandoned vehicle, or receives a report under Subsection V(F) of this Ordinance that such vehicle is left in a storage facility operated for commercial purposes, it shall notify by certified mail:

- a. the last known registered owner of each vehicle impounded; and
- b. each lienholder recorded under Chapter 501, Transportation Code, for a motor vehicle or under Chapter 31, Parks and Wildlife Code, for a watercraft or outboard motor.

2. The notice shall:

- a. specify the year, make, model, and identification number of the abandoned vehicle;
- b. set forth the location of the facility where the vehicle is being held,
- c. inform the owner and any lien holders of their right to reclaim the vehicle not later than the 20th day after the date of the notice upon payment of all towing, reservation, and storage charges resulting from impounding the vehicle, or garagekeeper's charges and fees.
- d. state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes
 - i. a waiver by the owner and lien holders of all right, title, and interest in the vehicle; and
 - ii. consent to the sale of the vehicle at a public auction.

3. Notice by publication in a newspaper of general circulation in the City within the time period and containing all the information required by this Subsection C is sufficient notice under this Ordinance if:

- a. the identity of the last registered owner cannot be determined; or
 - b. the registration contains no address for the owner, or
 - c. it is impossible to determine with reasonable certainty the identity and address of all lien holders,
4. Notice by publication may contain multiple listings of abandoned vehicles.

5. The Police Department is not required to send a notice if the Police Department 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.

6. In addition to the notice required under Subsection 1 of this Subsection C, if the Police Department impounds an abandoned vehicle, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the Police Department impounds the vehicle. The Police Department shall also provide the name and address of the person that filed the theft report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

D. STORAGE FEES

If the Police Department or an agent of the Police Department impounds an abandoned vehicle, it is entitled to reasonable storage fees for:

1. a period of not more than 10 days, beginning on the day the item is impounded and ending on the day the required notice is mailed; and
2. a period beginning on the day after the day the department mailed notice and continuing through the day any accrued charges are paid and the vehicle is removed.

E. AUCTION, USE OR TRANSFER OF ABANDONED MOTOR VEHICLES

1. If an abandoned vehicle has not been claimed within twenty (20) days after the date of notice and payment of all towing, preservation and storage charges resulting from its impoundment, the Police Department may:

- a. sell the item at a public auction;
- b. use such item for any Police Department purpose; provided that in the event that the Police Department shall subsequently cease using the item,

the item will be sold at public auction in conformance with the provisions of subsection 1.a.

- c. transfer the vehicle to any other municipal or county agency, a groundwater conservation district governed by Chapter 36, Water Code, or a school district for the use of that agency or district;
- d. transfer the vehicle, if a watercraft, to the Parks and Wildlife Department pursuant to section 683.014(d), Texas Transportation Code.

2. Proper notice of the public auction shall be given; and in the event the abandoned vehicle is to be sold in satisfaction of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of such auction. Notice given in accordance with the requirements of this Ordinance or the giving of notice of the sale of other types of abandoned property, shall be sufficient to comply with the requirements of this section.

3. The purchaser of the abandoned vehicle shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the Police Department and is entitled to register the purchased vehicle and receive a certificate of title.

4. From the proceeds of the sale of an abandoned vehicle, the Police Department shall be entitled to reimbursement for the expenses of the auction, the cost of towing, preserving, and storing the vehicle that resulted from impounding the abandoned vehicle, and all notice and publication costs incurred pursuant to Subsection C. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs that result from impounding another abandoned vehicle, if the proceeds from a sale of another abandoned vehicle are insufficient to meet these expenses and costs. The City may transfer the amount in the special fund exceeding \$1,000.00 from the special fund to the City's general revenue account to be used by the Police Department.

F. GARAGEKEEPERS AND ABANDONED MOTOR VEHICLES

1. A motor vehicle left with a garagekeeper in a storage facility operated for commercial purposes shall be deemed abandoned under the conditions of Section 683.031, Texas Transportation Code.

2. The Police Department, upon receiving a report from a garagekeeper of possession of a vehicle considered abandoned under the provisions of Section 683.031, Texas Transportation Code, shall follow the notification procedures provided by Subsection V(C) of this Ordinance and custody of the vehicle shall remain with the garagekeeper until after the notification requirements are satisfied. A fee of \$10.00 shall accompany the report of the

garagekeeper to the Police Department and such fee shall be retained by the Police Department to defray the costs of notification and costs incurred in the disposition of the abandoned motor vehicle.

3. Abandoned vehicles left in storage facilities, which are not reclaimed after notice given in accordance with this Ordinance, shall be impounded by the Police Department and used for department purposes or sold at auction as set forth in Subsection (V)(E) of this Ordinance. If the vehicle is sold, the proceeds of the sale shall first be applied to the garagekeeper's charges for servicing storage and repair; provided, however, that the Police Department, or the City's designated law enforcement agency, shall retain an amount of two (2) percent of the gross proceeds of the sale for each vehicle auctioned, but in no event shall it retain less than ten dollars (\$10.00), to be used to defray expenses of the impoundment and auction. Any surplus proceeds shall be distributed as provided in Subsection V(E) of this Ordinance.

SECTION VI REGULATION OF JUNKED VEHICLES

A. PUBLIC NUISANCE; PROHIBITION

It shall be unlawful for any person to cause or maintain a public nuisance with regard to junked vehicles as provided in this Ordinance.

B. FILING AND INVESTIGATING COMPLAINTS

1. Any City resident or property owner may file a complaint alleging a violation of this Ordinance. The complaint must:

- a. be in writing;
- b. provide sufficient details about the alleged violation;
- c. be signed by the complainant; and
- d. be filed with the Code Compliance Officer.

2. The Code Compliance Officer, on his/her own knowledge or on the basis of a complaint by a City resident or property owner, shall investigate any alleged violation of this Ordinance.

3. The Code Compliance Officer may enter private property to examine an alleged violation of this Ordinance, to obtain information to identify the nuisance and to remove or direct the removal of the nuisance in compliance with this Ordinance.

4. If the Code Compliance Officer determines there is a violation of this Ordinance and that a public nuisance exists, the Officer shall submit to the City Manager or the City Manager's designee a written report of violation. The City Manager or designee may then initiate official action to remove and abate a junked vehicle nuisance. Failure by the Code Compliance Officer to provide the written report described by this subsection shall not prevent the City from taking any action allowed by law.

C. EXEMPTIONS

Exempt from this Ordinance is a vehicle, or part thereof, that:

1. is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

2. 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;
- b. not a health hazard; and
- c. screened from ordinary public view by appropriate means.

D. NOTICE AND REMOVAL

1. The City Manager or the City Manager's designee may authorize the Code Compliance Officer to issue written notice to the alleged violator. Notice must be provided in accordance with this Ordinance prior to abatement and removal of the junked vehicle nuisance.

2. The notice shall describe the nature and location of the junked vehicle nuisance and be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- a. the last known registered owner of the nuisance junked vehicle;
- b. each lienholder of record of the nuisance junked vehicle; and
- c. the owner or occupant of:
 - i. the property on which the junked vehicle is located; or
 - ii. if the junked vehicle is located on a public right-of-way, the property adjacent to the right-of-way.

3. The notice shall state that:

- a. the nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was personally delivered or mailed; and
- b. any request for a hearing must be made before that ten (10) day period expires.

4. In addition to notice by mail, notice shall be placed on the vehicle or, if the owner is located, personally delivered.

5. If the nuisance has not been removed within ten (10) days after the date on which the notice was personally delivered or mailed and the alleged violator has not requested a public hearing, the Code Compliance Officer may request the municipal court to order the removal of the nuisance. The court's order shall:

- a. contain information about the junked vehicle's description, vehicle identification number, and license plate number for a motor vehicle, or a description and identification number set forth in the watercraft's certificate of number for a watercraft, if the information is available at the location of the nuisance;
- b. authorize the relocation of the junked vehicle, or a part thereof to a scrap yard, a motor vehicle demolisher, or a suitable site operated by a municipality or county; and
- c. provide that the junked vehicle shall not thereafter be reconstructed or made operable.

6. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11th) day after the date of the return.

E. PUBLIC HEARING

1. Upon request within the time period set out in Subsection VI(D) of this Ordinance, a public hearing shall be held upon request of a person who receives notice as provided by Subsection VI(D) if the request is made not later than the date by which the nuisance must be abated and removed. The public hearing shall be before the City Council or its designee to determine whether or not a junked vehicle nuisance exists and for the purpose of entering an order or resolution requiring the removal of such junked vehicle, if found to be a nuisance.

2. If a hearing is requested by a person who receives notice as provided by Subsection VI(D), then the hearing shall be held not earlier than the eleventh (11th) day after the date on which notice was provided as described in Subsection VI(D) of this Ordinance.

3. At the hearing, the junked vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

4. If, after written notice has been provided as described in Subsection VI(D) of this Ordinance, the junked vehicle is relocated to another location in the City after a proceeding for the abatement and removal of the vehicle has commenced, the relocation has no effect on the proceeding if the vehicle constitutes a public nuisance at the new location.

5. If the Council or its designee finds, after a hearing, that the vehicle is a junked vehicle nuisance, a resolution shall be entered requiring the removal of the vehicle and the resolution shall:

- a. contain information about the junked vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance; and
- b. authorize the relocation of the junked vehicle, or a part thereof to a scrap yard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

F. ADMINISTRATION OF REMOVAL OF VEHICLE

The Code Compliance Officer shall administer the procedures for the abatement and removal of junked vehicles from property under this Ordinance, except any authorized person may remove the junked vehicle from the property.

G. NOTICE TO DEPARTMENT OF MOTOR VEHICLES

The Code Compliance Officer shall, not later than the fifth (5th) day after the removal of a junked vehicle under this Ordinance, provide written notice of the removal to the Department. Such notice shall identify the vehicle or part of the vehicle that was removed.

H. RECONSTRUCTION PROHIBITED

When a junked vehicle is declared a public nuisance under this Ordinance and is ordered to be removed, it shall not thereafter be reconstructed or made operable.

I. ENFORCEMENT

1. Civil and Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

2. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

3. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- a. injunctive relief to prevent specific conduct that violates this Ordinance or to require specific conduct that is necessary for compliance with this Ordinance; and
- b. a civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of this Ordinance and after receiving notice committed acts in violation of this Ordinance or failed to take action necessary for compliance with this Ordinance; and
- c. any other available relief.

SECTION VII SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION VIII SEVERABILITY

If any provision, section, sentence, clause or phrase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Granite Shoals in adopting, and of the Mayor in approving this ordinance, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

SECTION IX REPEALER

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION X EFFECTIVE DATE.

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION XI NOTICE AND 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, Chapter 551 of the Texas Government Code.

Passed and approved this 14th day of May, 2013.

The City of Granite Shoals

Public Notice

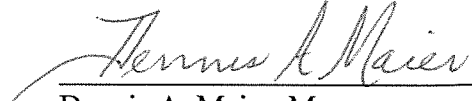
ORDINANCE NO. 605 – Junked and Abandoned Vehicles was adopted by the City Council of the City of Granite Shoals at a regular meeting held on May 14, 2013. This notice is being published as setforth by the City Charter, Section 3.13. Ordinance No. 605 will become effective on May 22, 2013.

AN ORDINANCE OF THE CITY OF GRANITE SHOALS, TEXAS REGARDING JUNKED AND ABANDONED VEHICLES AND PROVIDING FOR FINDINGS OF FACT; JURISDICTION; DEFINITIONS; DECLARATION OF PUBLIC NUISANCE AND PROHIBITION; PROCEDURES FOR FILING AND INVESTIGATING COMPLAINTS; EXEMPTIONS; NOTICE AND REMOVAL; PUBLIC HEARING; ADMINISTRATION OF REMOVAL OF VEHICLE; NOTICE TO DEPARTMENT OF MOTOR VEHICLES; RECONSTRUCTION PROHIBITED; RELATION TO OTHER ORDINANCES; EFFECTIVE DATE; ENFORCEMENT INCLUDING A CRIMINAL FINE NOT TO EXCEED \$500.00 OR CIVIL PENALTY OF \$100.00 PER VIOLATION; NO VESTED INTEREST; SEVERABILITY; AND PROPER NOTICE AND MEETING.

**Ann Smith
Interim City Secretary**

The complete ordinance is available for public examination at City Hall, 2221 N. Phillips Ranch Road, Granite Shoals, Texas 78654.

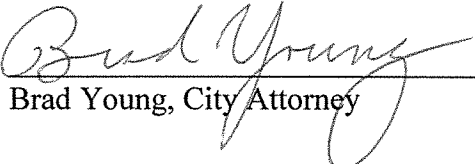
APPROVED:


Dennis A. Maier, Mayor

ATTEST:


Ann Smith, Interim City Secretary

APPROVED AS TO FORM:


Brad Young, City Attorney