

ORDINANCE NO. 347

**AN ORDINANCE OF THE CITY OF MADISONVILLE, TEXAS,
ADOPTING THE TEXAS ABANDONED MOTOR VEHICLE ACT;
DECLARING THE PRESENCE OF ANY JUNKED MOTOR VEHICLE
WITHIN THE CITY OF MADISONVILLE TO BE A PUBLIC NUISANCE
WITH CERTAIN EXCEPTIONS; PROVIDING FOR NOTIFICATION TO
OWNER/OCCUPANT OF PRIVATE OR PUBLIC PREMISES TO ABATE
NUISANCE; PROVING A SAVINGS CLAUSE; REPEALING ORDINANCES IN
CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.**

WHEREAS, junk, abandoned, inoperable vehicles create an unsightly and unhealthy Situation in the City; and,

WHEREAS, these vehicles no longer have any real value; and,

WHEREAS, the City Council wishes to continue the efforts to make the City a clean and safe place to live.

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

SECTION A. That the enactment of Ordinance No 347, is hereby approved as follows:

**ABATEMENT OF HEALTH AND SAFETY NUISANCES
ABANDONED/JUNKED MOTOR VEHICLES**

Section 1. Adoption of Texas Abandoned Motor Vehicle Act.

1. All provisions of the Texas Abandoned Motor Vehicle Act are hereby expressly incorporated into this ordinance and adopted.
2. All references to the "Texas Abandoned Motor Vehicle Act" shall mean Tex. Rev. Civ. Stat. Ann. Art. 4477-9a, and any amendments thereto.

Section 2. Definitions

A "junked motor vehicle" is any motor vehicle which is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection sticker, and which is wrecked, dismantled, partially dismantled or discarded, or that remains inoperative for a continuous period of more than forty-five (45) days, with the exception of the following:

1. Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately-owned drag strips or raceways.
2. Any motor vehicle retained by the owner as an antique auto (a passenger car or truck that is at least 35 years old) for collection purposes rather than for salvage or for transportation.
3. Any motor vehicle retained by the owner as a special interest vehicle (a motor vehicle of any age that has not been altered or modified from original manufacture's specification) and is being preserved by him for its historic interest rather than for salvage or for transportation.
4. Any motor vehicle in operable condition specifically adapted, constructed for or used in a farming or other agricultural type of activity.
5. Any motor vehicle stored as the property of a member of the armed forces of the United State who is on active duty assignment.

Section 3. Declaration of Nuisance

The presence of any junked motor vehicle, or parts thereof, on any public property or private lot, tract of parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the city, shall be deemed a public nuisance by wrecking, dismantling, partially dismantling or discarding any motor vehicle on the real property of such person or of another or to suffer, permit or allow any junked or abandoned motor vehicle to be parked, left or maintained on such person's own real property, or that of another; provided, that this section shall not apply with regard to:

1. Any junked motor vehicle, or a part thereof, which is parked or stored within An enclosed building in a lawful manner where it is not visible from the street or any other public or private property;
2. Any junked motor vehicle, or part thereof, stored or parked in a lawful manner On private property in connection with the business of a licensed vehicle dealer or a junkyard;
3. Any junked motor vehicle, or part thereof, parked in an appropriate storage place or depository maintained at a location officially designated and in a manner approved by the city.

Section 4. Notice to Owner or Occupant to Abate Nuisance, Performance by City, Appeal, - On occupied Premises.

1. Whenever any such public nuisance exists on occupied premises within the city in violation of Section 3, the city, through any official or officer, or a duly authorized agent, shall order the owner of the premises, if in possession thereof, or the occupant of the premises whereon such a public nuisance exists, to abate or remove the same. Such order shall:
 - a. Be in writing.
 - b. Specify the public nuisance and its location.

- c. Specify the corrective measures required.
 - d. Provide the compliance within ten (10) days from service thereof.
2. Such order shall be served upon the owner or occupant of the premises whereupon such public nuisance exists by personal service or by certified or registered mail with a five-day return receipt requested. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the return of such notice. If the owner or occupant of the premises fails or refuses to comply with the order within the ten-day period after notice thereof, as provided herein, the city shall take possession of such junked motor vehicle and remove it from the premises. However, if the owner or occupant of such premises so desires, such owner or occupant may, within such ten-day period after service of notice to abate the nuisance, request the clerk of the municipal court of the city, either in person or in writing, and without the requirement of bond, that a date and a time be set when such person may appear before the judge of the municipal court for a hearing to determine whether or not such person is in violation of this article, and such hearing be set as provided in Section 6.

Section 5. Same- On Unoccupied Premises.

1. Whenever any such public nuisance exists on unoccupied premises within the City in violation of Section 3 and the owner thereof can be found, the city through any official or officer, or a duly authorized agent, shall order the owner of the premises whereon such public nuisance exists, to abate or remove the same. Such order shall:
 - a. Be in Writing.
 - b. Specify the public nuisance and its location
 - c. Specify the corrective measures required.
 - d. Provide for compliance within ten (10) days from service thereof.
2. The order shall be served upon the owner of the premises by serving such owner in the same manner as set out in Section 4 at such owner's address as shown by the current tax rolls of the city. If the owner of the premises fails or refuses to comply with the order within the ten-day period after service thereof as provided herein, the city shall take possession of such junked motor vehicle and remove it from the premises. However, if the owner of the premises so desires, such owner may, within such ten-day period after service of notice to abate the nuisance, request of the clerk of the municipal court of the city, either in person or in writing and without the requirement of bond, that a date and a time be set when such person may appear before the judge of the municipal court for a hearing to determine whether or not such person is in violation of this article; and such hearing shall be set as provided in Section 6.

Section 6. Preliminaries to Trial in Municipal Court.

Upon receiving a request for trial, made pursuant to Section 4 or Section 5, the clerk of the municipal court shall set a date and a time for such trial on the court docket. The clerk of the municipal court shall notify the city attorney of the date and time of such hearing. The city attorney shall cause to be prepared, filed and served on the defendant, a written complaint charging that the owner or occupant of the premises, as the case may be, has violated this article. After service, such complaint shall be on file with the clerk of the municipal court not less than ten (10) days prior to the date of trial.

Section 7. Hearing in Muncipal Court.

The judge of the municipal court shall hear any case brought before said court, as set out herein, and shall determine whether or not the defendant is, in fact, in violation of this article. Upon a finding that the defendant is in violation of this article, said defendant shall be deemed guilty of a misdemeanor and subject to a fine in accordance with the provisions of Section 1-14. The judge of said court shall further order such defendant to Remove and abate said nuisance within ten (10) days, the same being a reasonable time. If the defendant shall fail or refuse within the said ten (10) days to abate or remove said Nuisance, the judge of the municipal court shall issue an order directing the chief of police to have the same removed, and the chief of police, or the chief's duly authorized agent, shall take possession of said junked motor vehicle and remove it form the premises. Such order shall include a description of the vehicle and the correct identification number and license number if available at the site.

Section 8. Removal with Permission of Owner or Occupant.

If, within ten (10) days after the receipt of notice from the city to abate the nuisance, as herein provided, the owner or occupant of the premises shall give written permission to the city for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

Section 9. Removal From Unoccupied Premises by Order of Municipal Court.

If there is a junked motor vehicle, as herein defined, on premises that are unoccupied, and neither the owner of the premises nor the owner of such vehicle can be found and notified to remove the same, then, upon a showing of such facts to the judge of the municipal court, the court may issue an order directing the city to have the same removed and the chief of police, or the chief's duly authorized agent, shall take possession of such junked motor vehicle and remove it from the premises.

Section 10. Disposal of Junked Motor Vehicle; Administration of Article.

1. Junked motor vehicles shall be removed by the chief of police, or the chief's

Duly authorized agent. A junked motor vehicle which has been removed under this article shall not be reconstructed or made operable. Within five (5) days after the date of removal, notice shall be given to the state department of highways and public transportation identifying the vehicle or part thereof so the department may cancel the certificate of title to the vehicle. Motor Vehicles removed under this article shall be disposed of in accordance with section 5.01 through 5.12 of Tex. Rev. Civ. Stat. Ann. Art. 4477-9a, as amended.

2. The administration of this article shall be executed by regularly salaried, full-time employees of the city, except that the removal of vehicles, or parts thereof, from property may be by any other duly authorized person.

Section B. If any term, provision or section of this ordinance is unenforceable, then in that event, the remaining terms, provisions or section shall remain in full force and effect.

Section C. All ordinances or parts of ordinances in conflict with provisions of this ordinance are to the extent of such conflict hereby repealed.

Section D. It is found that an emergency and urgent public necessity exists which requires the immediate passage of this ordinance.

PASSED AND ADOPTED, this the 9th day of September, 1996.

City of Madisonville, Texas

By: *Kirby H. Woehst*
Mayor

ATTEST:

Joyce Shiflet
City Secretary

APPROVED AS TO FORM:

John Bankhead
City Attorney