

ORDINANCE NO. 050825-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS, REPEALING AND REPLACING CHAPTER 16, ARTICLE IV. – JUNKED VEHICLES REGULATIONS FOR JUNKED VEHICLES WITHIN THE CITY; PROVIDING FOR PENALTIES; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of La Vernia, Texas is a Type A general law city operating under the provisions of the Texas Constitution and the Local Government Code; and

WHEREAS, the City of La Vernia in accordance with the authorization of Texas statutes, including but not limited to Texas Transportation Code Chapter 683, Subchapter E is authorized to regulate junked vehicles;

WHEREAS, Council desires to adopt regulations relating to the storing of junked vehicles within the City's corporate limits to better protect the health, safety, general welfare and morals of the residents of the City:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Regulations Adopted. The Chapter 16, Article IV. – Junked Vehicles is hereby repealed and replaced as set forth in the attached **Exhibit "A"**.

Section 3. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Saint Hedwig, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section 4. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

Section 6. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Chapter. 551, Local Government Code.

Section 7. Publication. The City Secretary is directed to publish notice of this Ordinance in the City's official newspaper, in substantially the same form as **Exhibit "B"**, attached hereto and incorporated by reference.

PASSED AND APPROVED on this 8th day of May, 2025.

CITY OF LA VERNIA, TEXAS

Mayor

ATTEST:

City Secretary

EXHIBIT "A"

CHAPTER 16, ARTICLE IV. – JUNKED AND ABANDONED VEHICLES

Sec. 16-401. - Definitions.

Abandoned Vehicles. A vehicle that:

- (a) is inoperable, on public property for more than 48 hours;
- (b) has remained illegally on public property for more than 48 hours;
- (c) has remained on private property without the consent of the owner or person in charge of the property;
- (d) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; or
- (e) is considered an abandoned motor vehicle under Section 644.153(r) of the Transportation Code.

Antique Vehicle. A passenger car or truck that is at least 25 years old.

City means the City of La Vernia, Texas

Code Official means the Code Enforcement official of the City or other regularly salaried, full-time employee of the City designated by the Mayor to enforce this article.

Inoperable means a vehicle that is in such condition at the time of inspection, that it is no longer usable for the purpose for which it was manufactured, regardless of the potential for repair or restoration. If the vehicle is wrecked, dismantled or partially dismantled it is presumed to be inoperable.

"Junked vehicle" means a vehicle that:

- (a) is self-propelled; and
- (b) is:
 - (1) wrecked, dismantled or partially dismantled, or discarded; or
 - (2) 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.

(c) For purposes of this Article, "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This Article applies only to:

- (1) a motor vehicle that does not have lawfully attached to it:
 - (i) an unexpired license plate; and
 - (ii) a valid motor vehicle inspection certificate;

- (2) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or
- (3) a watercraft that:
 - (i) does not have lawfully on board an unexpired certificate of number; and
 - (ii) is not a watercraft described by Section [31.055](#), Parks and Wildlife Code.

Junked Vehicle Board of Appeals (Board) means the Board appointed by the City Council to conduct hearings as authorized by this Article and the Texas Transportation Code Sec. 683.076.

Ordinary public view means a vehicle or any part thereof or the tarp or cover thereon that is visible at any time of the year from any public right-of-way, or adjacent land, or the first floor level of a building thereon, which is owned or occupied by a person other than the property owner or occupant of the property on which the vehicle is located or parked.

Property owner means the owner of any premises, as listed in the real property tax records of the City.

Sec. 16-402. - Declaration of junked vehicle to be a public nuisance.

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:

- (a) Is detrimental to the safety and welfare of the public;
- (b) Tends to reduce the value of private property;
- (c) Invites vandalism;
- (d) Creates a fire hazard;
- (e) Is an attractive nuisance creating a hazard to the health and safety of minors;
- (f) Produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (g) Is a public nuisance.

Sec. 16-403. – Offense for Junked Vehicle.

- (a) A person commits an offense if the person maintains a public nuisance as described by this Article.
- (b) An offense under this Article is a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00). In the event a defendant has once previously been convicted under this article, the defendant shall be fined an amount not less than one hundred dollars (\$100.00) for each conviction thereafter. Each day a violation is permitted to exist shall constitute a separate offense.
- (c) The municipal court shall order abatement and removal of the nuisance on conviction.

Sec. 16-404. - Procedures for abating nuisance of Junked Vehicle.

- (a) *Generally.* The city's procedures for the abatement and removal of a junked vehicle or a part of a junked vehicle as a public nuisance from private property, public property or public rights-of-way are set out in this section.
 - (1) Procedures for abatement and removal of a public nuisance must be administered by the Code Official, or another regularly salaried, full-time employee of the City designated by the Mayor to enforce this Article, except that any authorized person may remove the nuisance.
 - (2) Pursuant to the procedures established by this section, the person authorized to administer these procedures 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.
 - (3) The municipal court may issue necessary orders to enforce an action taken by the Code Official, the Junked Vehicle Board of Appeal, or both, under this section, pursuant to Tex. Transp. Code Ann. § 683.074.
 - (4) Once a proceeding for the abatement and removal of the public nuisance has commenced under this section, the relocation of a junked vehicle that is a public nuisance to another location within the City has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
 - (5) In the event that the City removes a junked vehicle from private or public property pursuant to this section, the Code Officer shall provide notice to the Texas Department of Transportation, identifying the vehicle or part of the vehicle being removed, not later than the fifth day after the date of removal.
 - (6) A junked vehicle removed pursuant to the provisions of this section may not be reconstructed or made operable after removal.
- (b) *Notice of Nuisance.*
 - (1) The Code Official shall give not less than 10 days before an abatement action, written notice stating the nature of the public nuisance. The notice must 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;

- (B) each lienholder 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) The notice must state:
 - (A) that 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
 - (B) any request for a hearing before the Junked Vehicle Board of Appeals must be made before the 10th day after the date on which the notice was personally delivered or mailed.
- (3) 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.
- (4) 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.
- (c) *Junked Vehicle Board of Appeals.* City Council shall serve as the Junked Vehicle Board of Appeals.
 - (1) Rules of Procedure. The Board shall establish rule of procedure for the conduct of hearings in a manner that is consistent with this Article and that provides due process to all parties to the Appeal.
- (d) *Hearing.* A hearing may be requested by the registered owner of the nuisance, by any lienholder of record, or by any owner or lawful occupant of the property on which the nuisance is located by written request submitted to the City Secretary. Upon receipt of the request, the City Secretary shall notify the Board, who shall conduct a public hearing pursuant to the procedures that follow:
 - (1) The Board shall convene to conduct a hearing as soon as practical, but not earlier than the 11th day following service of notice to remove the vehicle.
 - (2) The decision of the Code Official shall not be overturned unless a majority of the Board determines that a preponderance of the presented evidence proves that the Code Official's decision was in error.

- (3) If the Board upholds the Code Official's determination that the junked motor vehicle is a nuisance, the Board shall issue an order requiring removal of the nuisance, which, if such information is available, must include:
 - (A) for a motor vehicle, the vehicle's:
 - (i) description;
 - (ii) vehicle identification number; and
 - (iii) license plate number;
 - (B) for an aircraft, the aircraft's:
 - (i) description; and
 - (ii) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
 - (C) for a watercraft, the watercraft's:
 - (i) description; and
 - (ii) identification number as set forth in the watercraft's certificate of number.
- (4) An order shall become final:
 - (A) after the 10th day after the date on which the notice was personally delivered, or mailed, if request for a hearing before the Junked Vehicle Board of Appeals; or
 - (B) after the 11th day after the date of the return if notice is returned undelivered; or
 - (C) after a decision of the Board is rendered, if a request for hearing is requested.
- (5) Any party aggrieved by the decision of the Board shall have 30 days after the date of issuance of the order to appeal the decision to a court of competent jurisdiction.
- (6) The City shall take no action to remove or destroy a junk vehicle that is the subject of the Order until the 31st day following the date the Order was issued.
- (7) An appeal of the Board's Order shall stay all City action regarding said vehicle until such time as the court has rendered its final decision regarding the matter and all appeals have been exhausted or an appeal of the court's decision was not filed and the date for filing such appeals has passed.

Sec. 16-405.- Removal and disposal of nuisance for Junked Vehicle.

- (a) Compliance with an order for removal of a public nuisance may be carried out by any person or entity so authorized by the Code Official.
- (b) The removal of a vehicle or part of a vehicle determined to be a nuisance, pursuant to a decision of the Code Official or an order of the Board, as the case may be, shall not commence until the period prescribed for appeal of the decision of the Code Official or the order of the Board, as the case may be, has passed and the decision or order has become final. Once the decision or Order is final, the vehicle, including a part of a junked vehicle, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by the City, or the City may operate a disposal site if the Council determines that commercial disposition is not available or is inadequate, and it may make final disposition of the vehicle or vehicle parts, including transferring it or them to another disposal site if the disposal is scrap or salvage only.
- (c) Any proceeds from the transfer of the junked vehicle or part thereof to the site authorized by this section shall be used to reimburse the City for all costs incurred in the notification, investigation, hearing, and disposal procedures (including any and all variable towing and disposal fees from contracted sources) within this article. Any remaining proceeds shall be transferred to the lienholder of record or, if none, the owner of record.

Sec. 16-406. – Exceptions for Junked Vehicles.

The procedures and penalties authorized by this article shall not apply to a vehicle or vehicle part that is:

- (1) Completely enclosed in a building in a lawful manner and is not visible from the street or 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 of the outdoor storage area, if any, are:
 - (A) Maintained in an orderly manner;
 - (B) Not a health hazard; and
 - (B) Screened completely from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Sec. 16-407. - Authority to Take Abandoned Motor Vehicle into Custody.

(a) A law enforcement agency may take into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public 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, aircraft, watercraft, or outboard motor taken into custody by the agency under this subchapter.

Sec. 16-408. - Taking Abandoned Vehicles into Custody: Notice.

(a) A law enforcement agency shall send notice of abandonment to:

(1) the last known registered owner of each motor vehicle, aircraft, 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:

(A) under Chapter 501 of the Transportation Code for the motor vehicle;

(B) with the Federal Aviation Administration or the secretary of state for the aircraft; or

(C) under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.

(a-1) A law enforcement agency that takes into custody an aircraft shall contact the Federal Aviation Administration in the manner described by Section 22.901 to attempt to identify the owner of the aircraft before sending the notice required by Subsection (a).

(b) The notice under Subsection (a) must:

(1) be sent by certified mail not later than the 10th day after the date the agency:

(A) takes the abandoned motor vehicle, aircraft, watercraft, or outboard motor into custody; or

(B) receives the report under Section 683.031 of the Transportation Code;

(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:

(A) towing, preservation, and storage charges; or

(B) garagekeeper's charges and fees under Section 683.032 of the Transportation Code and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q) of the Transportation Code, 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:

(A) a waiver by that person of all right, title, and interest in the item; and

(B) 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, aircraft, 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, aircraft, 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.

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, 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 agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

Sec. 16-409. - Storage Fees for Abandoned Vehicles.

A law enforcement agency or the agent of a law enforcement agency that takes into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor is entitled to reasonable storage fees:

(1) for not more than 10 days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and

(2) beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, aircraft, watercraft, or outboard motor is removed.

Sec. 16-4010. - Auction or Use of Abandoned Items; Waiver of Rights.

(a) If an abandoned motor vehicle, aircraft, watercraft, or outboard motor is not claimed under Section 683.012:

(1) the owner or lienholder:

(A) waives all rights and interests in the item; and

(B) consents to the sale of the item by public auction or the transfer of the item, if a watercraft, as provided by Subsection (d); and

(2) the law enforcement agency may sell the item at a public auction, transfer the item, if a watercraft, as provided by Subsection (d), or use the item as provided by Section 683.016.

(b) Proper notice of the auction shall be given. A garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.

(c) The purchaser of a motor vehicle, aircraft, watercraft, or outboard motor:

(1) takes title free and clear of all liens and claims of ownership;

(2) shall receive a sales receipt from the law enforcement agency; and

(3) is entitled to register the motor vehicle, aircraft, watercraft, or outboard motor with and receive a certificate of title from the appropriate authority.

(d) On consent of the Parks and Wildlife Department, the law enforcement agency may transfer a watercraft that is not claimed under Section 683.012 to the Parks and Wildlife Department for use as part of an artificial reef under Chapter 89, Parks and Wildlife Code, or for other use by the Parks and Wildlife Department permitted under the Parks and Wildlife Code. On transfer of the watercraft, the Parks and Wildlife Department:

(1) takes title free and clear of all liens and claims of ownership; and

(2) is entitled to register the watercraft and receive a certificate of title.

Sec. 16-4011. - Auction Proceeds.

(a) A law enforcement agency is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, aircraft, watercraft, or outboard motor for:

(1) the cost of the auction;

(2) towing, preservation, and storage fees resulting from the taking into custody;

(3) the cost of notice or publication as required by Section 683.012; and

(4) any compensation made by the agency under Subsection (f) to property owners whose property was damaged as a result of a pursuit involving the motor vehicle.

(b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle.

(c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, aircraft, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

(d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the law enforcement agency or, if the vehicle, aircraft, watercraft, or outboard motor was located in a county with a population of less than 150,000, by the attorney representing the state.

(e) If the vehicle is a commercial motor vehicle impounded under Section 644.153(q) of the Transportation Code, the Department of Public Safety is entitled from the proceeds of the sale to an amount equal to the amount of the delinquent administrative penalty and costs.

(f) A law enforcement agency or an attorney representing the state may use funds transferred under Subsection (d) to compensate property owners whose property was damaged as a result of a pursuit involving a law enforcement agency or a federal law enforcement agency, regardless of whether the agency would be liable under Chapter 101, Civil Practice and Remedies Code

(g) Before a law enforcement agency or an attorney representing the state may compensate a property owner under Subsection (f) using funds transferred to a county under Subsection (d), the sheriff, constable, or attorney representing the state must submit the proposed payment for compensation for consideration, and the commissioners court shall consider the proposed payment for compensation, at the next regularly scheduled meeting of the commissioners court.

(h) In this section, "attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

Sec. 16-4012. - Law Enforcement Agency Use of Certain Abandoned Vehicles.

(a) The law enforcement agency that takes an abandoned motor vehicle into custody that is not claimed under Section 16-408. may:

(1) use the vehicle for agency purposes; or

(2) 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.

(b) The law enforcement agency shall auction the vehicle as provided by this subchapter if the law enforcement agency or the municipal or county agency, groundwater conservation district, or school district to which the vehicle was transferred under Subsection (a) discontinues use of the vehicle.

(c) This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.

(d) A law enforcement agency must comply with the notice requirements of Section 16-408. before the law enforcement agency may transfer a vehicle under Subsection (a)(2).

**EXHIBIT B
PUBLIC NOTICE**

ON May 8th, 2025, THE CITY OF LA VERNIA'S CITY COUNCIL PASSED AND APPROVED AN ORDINANCE REGULATING JUNKED VEHICLES WITHIN THE CITY; PROVIDING FOR PENALTY, NOT TO EXCEED \$200.00 PER DAY PER VIOLATION; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.