

ORDINANCE # 71

AN ORDINANCE CONTROLLING ABANDONED MOTOR VEHICLES IN THE CITY OF TUSCOLA, TEXAS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TUSCOLA, TX

ARTICLE I : ABANDONED MOTOR VEHICLES REGULATION

SECTION I : ABANDONED MOTOR VEHICLE

A. Any motor vehicle shall be considered "abandoned" which does not have lawfully affixed thereto both an unexpired license plate and a valid motor vehicle safety inspection certificate, and the condition of which is one (1) or more of the following:

- (1) wrecked
- (2) dismantled
- (3) partially dismantled
- (4) inoperative
- (5) abandoned
- (6) discarded

SECTION II : GENERAL EXCEPTIONS. The provisions stated in Section I shall not apply to:

- A. **Racers** Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately-owned drag strips or raceways is not considered an abandoned vehicle.
- B. **Antiques** Any motor vehicle retained by the owner for antique collecting purposes rather than for salvage or for transportation is not considered an abandoned vehicle.
- C. **Stored Vehicles** Any motor vehicle which is the property of any member of the Armed Forces of the United States who is on active duty assignment is not considered an abandoned vehicle.

SECTION III : ABANDONED MOTOR VEHICLES DEEMED A PUBLIC

NUISANCE. The presence of any abandoned motor vehicle on any private lot, tract or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, and within the City shall be deemed a public nuisance; and it shall be unlawful for any person to cause or maintain such a public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning, or discarding any motor vehicle on the real property of another or to suffer, permit, or allow any junk motor vehicle to be parked, left, or maintained on his own real property; provided, however, that this section shall not apply with regard to:

- A. any abandoned motor vehicle in an enclosed building;
- B. any abandoned vehicle on the premises of a business enterprise operating in a lawful manner, when same is necessary to the operation of such business enterprise;
- C. any abandoned motor vehicle in an appropriate storage place or depository maintained at a location officially designated and in a manner approved by the City.

SECTION IV : ISSUANCE OF ABATEMENT ORDERS AND REMOVAL PROCEDURES.

- A. Authorization for Issuance of Abatement Orders. Whenever any said public nuisance exists on unoccupied premises within the City in violation of Section III hereof, the owner of such premises shall be notified in writing by the City to correct, remedy, or remove the condition within ten (10) days after such notice, and it shall be unlawful for any person to fail to comply with such notice
- B. Notification Procedure. The notice provided for in Section IV shall be served personally on the owner to whom it is directed or shall be given by letter addressed to such owner at his last known post office address. In the event personal service cannot be made and the owner's address is unknown, such notice shall be given by a publication of at least two (2) times within ten (10) consecutive days in a newspaper of general circulation published within the city.

C. Removal of Conditions by the City. The Judge of a Court shall further order said defendant to remove and abate said nuisance within ten (10) days, the same being a reasonable time. If the defendant shall fail and refuse within said ten (10) days to abate or remove the nuisance, the Judge of a Municipal Court may issue an order directing the City of Tuscola to have the same removed, and the City of Tuscola or a duly authorized agent, shall take possession of said abandoned vehicle and remove it from the premises. The City of Tuscola, or a duly authorized agent, shall thereafter dispose of said abandoned motor vehicle in such manner as the City Council may provide.

D. Removal procedure from unoccupied premises by court order. If an abandoned motor vehicle, as herein defined, is located on premises that are unoccupied, and neither the owner of premises nor the owner of said vehicle can be found and notified to remove same; then, upon a showing of such fact to a Judge of the Municipal Court, the Court may issue an order directing the City of Tuscola to have the same removed. The City of Tuscola, or a duly authorized agent, shall thereafter dispose of said abandoned vehicle in such manner as the City Council may provide.

E. Compliance by granting permission for removal. If within ten (10) days after receipt of notice from the City of Tuscola, or a duly authorized agent to abate the nuisance, as herein provided, the owner or occupant of the premises shall give written permission to the City of Tuscola, or a duly authorized agent for the removal of the abandoned motor vehicle from the premises, the granting of such permission shall be considered compliance.

F Evidence of abandonment. If an abandoned motor vehicle, as defined in this Ordinance, has been situated on the private property of another person, without such person's permission, for a period of sixty (60) days or longer, this fact shall be *prima facie* evidence that the owner of said vehicle

has abandoned the same.

- G. Reconstruction of vehicle prohibited. After a vehicle is removed and disposed of under the provisions of the Ordinance, it shall be unlawful to reconstruct or make such vehicle operable again.
- H. Notification of Highway Department. Written notice must be given to the Texas Highway Department within five (5) days after the date of removal, identifying the vehicle or parts thereof which have been removed.

SECTION V: PENALTY AND SEVERABILITY

- A. Penalty. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of \$ 500.00. Each transaction in violation of any of the provisions hereof shall be deemed a separate offense.
- B. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases are separable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.

PASSED BY AND ADOPTED BY THE CITY COUNCIL, this

3 day of October, 2011, for the City of
Tuscola, Texas.



Mayor

Billie Pearce
City Secretary

THE ABOVE AND FOREGOING ORDINANCE WAS READ, PASSED, AND ADOPTED AT THE
MEETING OF THE GOVERNING BODY OF THIS CITY ON THE 3 DAY OF October,
2010, BY THE FOLLOWING VOTE:

<u>Jenny Abercrombie</u>	AYE	NO
<u>Frankie May Schild</u>	_____	_____
<u>Charles R. Jones</u>	_____	_____
<u>Sam Schild</u>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF TEXAS:

COUNTY OF TAYLOR:

I, THE UNDERSIGNED, CITY SECRETARY OF THE CITY OF TUSCOLA,
TEXAS DO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY
OF ORDINANCE # 71, PASSED AND APPROVED THE 3 DAY OF October
2010, AS SAME APPEARS IN THE OFFICIAL RECORDS OF THE CITY OF
TUSCOLA, TEXAS, OF WHICH RECORDS I AM LAWFUL CUSTODIAN.

WITNESS MY HAND AND OFFICIAL SEAL OF THE CITY OF
TUSCOLA, TEXAS, THIS THE 3 DAY OF October, 2010.

Billie Peace
SECRETARY FOR THE CITY OF
TUSCOLA, TEXAS