

CITY OF COCKRELL HILL, TEXAS

ORDINANCE NO. 2005-L

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS, AMENDING THE CITY OF COCKRELL HILL CODE OF ORDINANCES, CHAPTER 94, "ABANDONED VEHICLES," RELATIVE TO ABATEMENT OF NUISANCES; ESTABLISHING AUTHORITY OF CODE ENFORCEMENT OFFICERS TO ABATEMENT NUISANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 94 of the Code of Cockrell Hill, Texas ("Code"), sets forth the process to abate nuisances; and

WHEREAS, the City Council of the City of Cockrell Hill finds that the code enforcement officer should be authorized to administer the procedures set forth in Chapter 94; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and general welfare of the public to amend Chapter 94 of the Code to authorize the code enforcement officer to administer Chapter 94, relating to Abandoned Vehicles.

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

Section 1. That all of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. The Code of Cockrell Hill, Chapter 94, is hereby amended, in part, and shall read as follows:

"§ 94.03 MAINTAINING PUBLIC NUISANCE.

It shall be unlawful and a violation of this chapter to maintain the public nuisance if the nuisance is not removed and abated and a hearing is not requested within the ten-day period provided in § 94.04. It shall further be unlawful for any person to maintain a public nuisance if the nuisance is not removed and abated in compliance with the order of the City Council following the public hearing. In either such event, a code enforcement officer may file an appropriate complaint in the Municipal Court. If, upon such complaint, the person is found guilty of maintaining a public nuisance by the Municipal Court, the person may be punished by fine as set forth in § 10.99, and the Municipal Court may order removal and abatement of the nuisance.

§ 94.04 ABATEMENT OF NUISANCE.

Upon complaint, or upon his or her own initiative, a code enforcement officer of the City may initiate appropriate action to remove and abate a public nuisance in the nature of a junked vehicle in the following manner:

(A) A code enforcement officer or a public safety or police officer, shall be charged with the administration of the procedures set forth in this chapter.

(B) When it is determined by a code enforcement officer or a public safety or police officer that there exists on private property or public property within the city a junked vehicle which, in his or her opinion, constitutes a public nuisance within the meaning of § 94.02, he or she shall prepare a notice stating the nature of the public nuisance on private property or public property that it must be removed and abated within ten days and that a request for a hearing must be made before the expiration of the ten-day period. The notice must be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record and the owner or occupant of the private premises on which the public nuisance exists. If any notice is returned undelivered by the United States Post Office, the official action to abate the nuisance shall be continued to a date earlier than the eleventh day after the date of the return.

(C) When it is determined by a code enforcement officer or a public safety or police officer that there exists on public property or on a public right-of-way within the city a junked vehicle which, in his or her opinion, constitutes a public nuisance within the meaning of § 94.02, there must be issued a notice stating the nature of the public nuisance on public property or on a public right-of-way that the nuisance must be removed and abated within ten days and that a request for a hearing must be made before the expiration of the ten-day period. The notice must be mailed by certified mail with a five-day return requested to the last known registered owner of the junked vehicle, any lien holder of record and the owner or occupant of public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not earlier than the eleventh day after the date of the return.

(D) When such a hearing is requested by the owner, lien holder or occupant of public or private premises adjacent to the public right-of-way on which the vehicle is located, within ten days after the service of the notice to abate the nuisance, the code enforcement officer or a public safety or police officer shall set the matter for public hearing before the City Council at its next regular session which will provide at least ten days notice between the date of the request and the public hearing. After a full and fair public hearing, the City Council shall make a finding as to whether or not the vehicle or part thereof constitutes a public nuisance and, if so found, may by resolution or order require the removal of the vehicle or vehicle part, and the resolution

or order must include a description of the vehicle and the correct identification number and license number of the vehicle, if the information is available at the site.

(E) It shall be unlawful to reconstruct or to make operable any vehicle after it has been removed under force of an order of resolution finding the same to be a public nuisance, and a code enforcement officer or a public safety or police officer shall give notice to the Texas Department of Highways and Public Transportation not later than the fifth day after the date of the removal, identifying the vehicle or part thereof and requesting that the Department forthwith cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act (Tex. Transp. Code, Chapter 501, as amended).

§ 94.06 AUTHORITY TO ENFORCE.

Pursuant to Tex. Transp. Code, § 683.011, as amended, a code enforcement officer as the officer of the city authorized to administer the provisions of the procedures of this chapter, may enter upon private property for the purposes specified in the procedures set forth herein to examine vehicles or parts thereof, to obtain information as to the identity of the vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to the procedures set forth in this chapter. The Municipal Court shall have the authority to issue all orders necessary to enforce the procedures set forth in this chapter.”

Section 3. If any section, article, paragraph, sentence clause, phrase or word in this ordinance or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. This ordinance shall become effective, and be in full force and effect, from and after the date of its passage, and it is accordingly so ordained.


PASSED AND APPROVED the 26 day of July, 2005.


C. P. Slayton, Mayor

ATTEST:


John Hubbard, City Administrator

APPROVED AS TO FORM:


Robert F. Brown, City Attorney