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Honorable John Cornyn  
Office of the Attorney General  
Opinions Division  
P.O. Box 12548  
Austin, Texas 78711-2548

RECEIVED  
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OPINION COMMITTEE

Re: Request for Attorney General Opinion

To Whom It May Concern:

To what extent does a county have the authority to enforce "fencing" standards, as applied to automotive wrecking, salvage, and junkyards, to the determination of whether a junked vehicle is "visible" from a public place or public right-of-way?

A "junked vehicle" is, as defined in §683.071 Texas Transportation Code:

"A vehicle that is self-propelled and:

(1) does not have lawfully attached to it:

- (A) an unexpired license plate; or
- (B) a valid motor vehicle inspection certificate; and

(2) is:

- A) wrecked, dismantled or partially dismantled, or discarded; or
- B) 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.

A "junked vehicle" or part thereof becomes a public nuisance subject to abatement if, among other things, the junked vehicle "is visible from a public place or public right of way." Tex.Trans.Code §683.072.

No where do the statutes further define "visible". Thus, the term should be given its ordinary meaning. Is a sheet thrown over the junked vehicle ample to make it not visible? What of a tarp? Maybe a make-shift fence out of used wooden pallets or used roofing tin?

The screening requirements for a junkyard, automotive wrecking and salvage yard are described in §396.021(c)(1)(2)(3) Texas Transportation Code.

"A person who operates a junkyard or an automotive wrecking and salvage yard in a county with a population of 200,000 or less (*Comal County has population of 78,000*) shall screen the junkyard or automotive wrecking and salvage yard to at least six feet in height along the portion of the junkyard or automotive wrecking and salvage yard that faces a public road or residence. The person may *screen the yard by any appropriate means*, including:

- (1) a fence;
- (2) natural objects; or
- (3) plants." [emphasis added]

After the owner of a junked vehicle attempts make it not-so-visible, complaints are often lodged about the quality of the materials being used to screen or fence the vehicles from view. Other examples of materials that are frequently used to screen the junked vehicle from view are as follows:

- (1) Tongue and groove flooring;
- (2) Garage Doors;
- (3) Shipping crates;
- (4) Cardboard or other paper products; and
- (5) Salvage building materials.

Can the county require an owner of a junked vehicle to make it non-visible by using a fence, natural objects, or plants as would be required of a junkyard or automotive wrecking and salvage yard owner or operator? To what extent does a county have the authority to implement and enforce regulations defining "appropriate fencing"?

Thank you for the assistance in this matter.

Sincerely,



Dib Waldrip  
Criminal District Attorney