

## ORDINANCE NO. 2011-8

### AN ORDINANCE REPLACING ORDINANCE NO. 101; RESTRICTING AND REGULATING THE STORAGE OF JUNKED VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF BEASLEY; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING A PENALTY.

Be it ordained by the City Council of the City of Beasley:

#### Section 1 Definition.

For the purpose of this Ordinance, the following words and phrases shall have the meanings ascribed to them by this section:

- (a) **Junked Vehicle:** A motor vehicle that:
  - (1) Is inoperative and does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded; or
  - (2) Remains inoperable for a continuous period of more than forty-five (45) days.
- (b) **Storage Facility:** A garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing or parking of motor vehicles.
- (c) **Motor Vehicle:** a motor vehicle subject to registration under the Certificate of Title Act (article 6687-1 Vernon's Civil Statutes, as amended).
- (d) **Antique Auto:** Means a passenger car or truck that is at least thirty-five (35) years old.
- (e) **Special Interest Vehicle:** Means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyist.
- (f) **Collector:** Means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.
- (g) **Person:** Shall include each and every person with any degree of responsibility for the care, custody or control of any lot, tract or building.

#### Section 2 **Junked vehicles as a public nuisance.**

- (a) A junked vehicle that is located in a place where it is visible from a public place or right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire

hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city, producing urban blight adverse to the maintenance and continuing development of the city and is a public nuisance.

- (b) The provisions of this section shall not apply to:
- (1) A vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property
  - (2) A vehicle or vehicle part that is stored or parked in a lawful manner on private property in connections with a business of a licensed vehicle dealer or junk yard, or
  - (3) An unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, If the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate means.

**Section 3      Penalty and Enforcement Standards.**

- (a) A person commits an offense if that person maintains a public nuisance as defined in Section 2 of this ordinance.
- (b) A person who commits an offense under this ordinance is, on conviction, subject to a fine not to exceed \$500.00. On conviction, the court shall order removal and abatement of the nuisance.
- (c) Upon discovery of a violation of this ordinance, the Fort Bend County Sheriff's Department, or an authorized designee, may issue a municipal citation to the violator.
- (d) The Fort Bend County Sheriff's Department, or an authorized designee, may first issue a warning to the violator instructing the violator of the violation and providing an opportunity to cure the violation, unless it is determined, based upon the nature of the violation, that immediate action is required to protect the health, safety, and welfare of the public.
- (e) Failure to give such notice shall not preclude the issuance of a municipal citation for the violation.

**Section 4      Procedure for Abating Nuisance.**

- (a) In lieu of, and/or addition to, enforcement procedures, the City of Beasley may initiate abatement procedures.
- (b) For a nuisance on private property, not less than ten (10) days notice is required stating the nature of the public nuisance on private property, that it must be removed and abated within ten days, and that a request for a hearing must be

made before expiration of the ten day period. The notice shall be sent, by certified mail, with a five (5) day return requested, to the owner or occupant of the private premises on which the public nuisance exists. If the notice is returned undelivered by the United State Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of return.

- (c) For nuisance on public property, not less than ten (10) days notice is required 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 (10) days, and that a request for a hearing must be made before the expiration of the ten day period. The notice shall be sent, by certified mail, with a five (5) day return requested, to the owner or occupant of the public premises or 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 State Post Office, official action to abate the nuisance shall be continued ten (10) days after the date of the return.
- (d) A vehicle removed under these procedures shall not be reconstructed or made operable after it has been removed.
- (e) A public hearing is required before the removal of the vehicle or vehicle part as a public nuisance, if requested as provided in subsections (b) and (c) of this section. The hearing shall be held before the City Manager or any other official of the City designated by the City Council, if a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within ten (10) days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part 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.
- (f) Notice shall be given to the State Department of Highways and Public Transportation not later than the fifth day after removal of the vehicle or vehicle part. The notice must identify the vehicle or vehicle part. The Department shall immediately cancel the certificate of title pursuant to the Certificate of Title Act (article 6687-1, Vernon's Texas Civil Statutes).

**Section 5 Authority to Enforce.**

The Fort Bend County Sheriff's Department is authorized by the City to administer the procedures authorized by this ordinance and may enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance.

**Section 6 Repealer.**

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

**Section 7 Severability.**

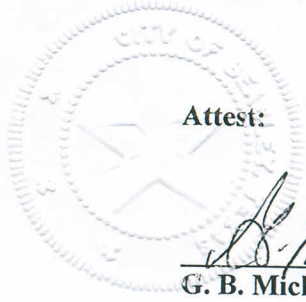
In the event any section, clause, sentence, paragraph, or portion of this ordinance shall be, for any reason, adjudged by any Court of competent jurisdiction to be invalid, such invalidity shall not effect, invalidate or impair the remainder of this ordinance.

**Section 8 Effective Date.**

This ordinance shall be in full force and effect from and after its passage and its publication as provided by law.

**PASSED, APPROVED AND ADOPTED** on this 19th day of July.

**Attest:**



  
G. B. Michulka, City Secretary

  
Kenneth Reid, Mayor