

ORDINANCE NO. 2018-4

AN ORDINANCE REPLACING ORDINANCE NO. 2011-8 (JUNKED VEHICLE ORDINANCE) AND ALSO SUPERSEDING ANY CONTRADICTORY PROVISION OF THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE.

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

Section 1 Definitions.

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

- (a) **Motor Vehicle:** means a vehicle that is subject to registration under Section 501 of the Texas Transportation Code (cited as the "Certificate of Title Act").
- (b) **Public Property:** means a public right-of-way, city street, city-owned alley, or any city-owned property. For purposes of this ordinance, Public Property shall not include the city-owned property that is utilized as a driveway or parking lot of the adjoining private property only if said driveway or parking lot is improved with gravel, stabilization, asphalt, concrete, or any other material typically utilized for said purposes.
- (c) **Person:** shall include each and every person with any degree of responsibility for the care, custody or control of any lot, tract or building.
- (d) **Junked Vehicle is defined as follows:**
 - (1) A Motor Vehicle that includes all four of the following characteristics:
 - (A) is self-propelled; and
 - (B) displays an expired license plate or does not display a license plate (hereinafter referred to as "Unlicensed"); and
 - (c) is wrecked, dismantled or partially dismantled, or discarded (hereinafter referred to as "Wrecked"); and
 - (D) is inoperable (hereinafter referred to as "Inoperable") and has remained inoperable for more than 30 consecutive days if the Motor Vehicle is on private property.
 - (2) Should a Motor Vehicle be Wrecked and Unlicensed but not Inoperable or Inoperable and Unlicensed but not Wrecked, said Motor Vehicle is also a Junked Vehicle if it is being stored in an unsightly manner (such as noticeably on blocks and not part of an immediate repair, flat tires, vegetation and debris around it, and any other unsightly manner).

- (3) Should a Motor Vehicle be Wrecked or Inoperable for 72 consecutive hours on Public Property, regardless if it is Unlicensed or not, said Motor Vehicle is also a Junked Vehicle.
- (e) Antique Vehicle: means a passenger car or truck that is at least twenty-five (25) years old and is licensed as an Antique Vehicle.
- (f) Special Interest Vehicle: means a Motor Vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.
- (g) Motor Vehicle Collector: means a Person who:
 - (i) owns one or more Antique Vehicles or Special Interest Vehicles; and
 - (ii) acquires, collects, or disposes of an Antique Vehicle or Special Interest Vehicle or part of an Antique Vehicle or Special Interest Vehicle for personal use to restore and preserve an Antique Vehicle or Special Interest Vehicle for historic interest.

Section 2 Junked Vehicle Declared to be a Public Nuisance.

- (a) A Junked Vehicle, including a part of a Junked Vehicle, which is visible at any time of the year from a public place or public right-of-way:
 - (1) is detrimental to the safety and welfare of the public;
 - (2) tends to reduce the value of private property;
 - (3) invites vandalism;
 - (4) creates a fire hazard;
 - (5) is an attractive nuisance creating a hazard to the health and safety of minors;
 - (6) produces urban blight adverse to the maintenance and continuing development of municipalities; and
 - (7) is a Public Nuisance.
- (b) The provisions of this section shall not apply to a Motor Vehicle or vehicle part:
 - (1) that is completely enclosed in a building or fenced area in a lawful manner and is not visible from the street or other public or private property; or
 - (2) that is stored or parked in a lawful manner on private property in connection with a commercial vehicle repair shop or that is an operable or inoperable, Antique Vehicle or Special Interest Vehicle stored by a Motor Vehicle Collector on the Motor Vehicle Collector's property, if the Motor Vehicle or vehicle part and the outdoor storage area, if any, are:

- (A) maintained in an orderly manner;
 - (B) not a health hazard; and
 - (C) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, shrubbery, or other appropriate means; however, screened from ordinary public view does not mean completely enclosed and not visible from public view.
- (3) Nothing in this subsection shall be more restrictive on the storage of an Antique Vehicle or Special Interest Vehicle than any other Motor Vehicle in the definition of a Junked Vehicle.

Section 3 Offense, Penalty and Enforcement Procedures.

- (a) A Person commits an offense if the Person maintains a Public Nuisance as defined in Section 2 of this ordinance.
- (b) An offense under this ordinance is a misdemeanor punishable by a fine not to exceed \$200.00 upon conviction.
- (c) Upon conviction, the court shall order abatement and removal of the Public Nuisance.
- (d) Upon discovery of a violation of this ordinance, the Fort Bend County Sheriff's Department, or an authorized designee of the City of Beasley, may issue a municipal citation to the violator.
- (e) The Fort Bend County Sheriff's Department, or an authorized designee of the City of Beasley, 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.
- (f) Failure to give such notice shall not preclude the issuance of a municipal citation for the violation.

Section 4 Notice for Abatement Procedures

- (a) In lieu of, and/or addition to, Enforcement Procedures, the City of Beasley may initiate Abatement Procedures.
- (c) For the abatement and removal of a Public Nuisance under this ordinance not less than ten (10) days' notice of the nature of the Public Nuisance must be provided. The notice must be personally delivered, sent by certified mail with a 5-day return requested, or delivered by the United States Postal Service with signature confirmation to:
 - (1) the last known registered owner of the Public Nuisance;
 - (2) each lienholder of record of the Public Nuisance; and

- (3) the owner or occupant of:
 - (A) the property on which the Public Nuisance is located; or
 - (B) if the Public Nuisance is located on Public Property, the property adjacent to the Public Property.
- (d) The notice must state that:
 - (1) the Public 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
 - (2) any request for a hearing must be made before that 10-day period expires.
- (e) If the post office address of the last known registered owner of the Public Nuisance is unknown, notice may be placed on the Public Nuisance or, if the owner is located, personally delivered.
- (f) If the notice is returned undelivered, action to abate the Public Nuisance shall be continued to a date not earlier than the 11th day after the date of return.

Section 5 Abatement Hearing.

- (a) The Beasley City Council or an official designated by the Beasley City Council shall conduct hearings under the procedures adapted under this ordinance.
- (b) If a hearing is requested by a Person for whom notice is required under this ordinance, the hearing shall be held not earlier than the 11th day after the date of the service of notice.
- (c) At the hearing, the Junked Vehicle is presumed, unless demonstrated otherwise by the owner, to be Inoperable.
- (d) If the information is available at the location of the Public Nuisance, a resolution or order requiring removal of the Public Nuisance must include:
 - (1) description;
 - (2) vehicle identification number; and
 - (3) license plate number.
- (e) The relocation of a Junked Vehicle that is a Public Nuisance to another location within the City of Beasley after the Abatement Hearing has commenced has no effect on the hearing if the Junked Vehicle constitutes a Public Nuisance at the new location.

Section 6 Junked Vehicle Disposal

- (a) A Junked Vehicle, including a part of a Junked Vehicle, may be finally disposed of by its removal to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.
- (b) A Junked Vehicle removed under this ordinance shall not be reconstructed or made operable after it has been removed.
- (c) Notice shall be given to the Texas Department of Motor Vehicles not later than the fifth day after removal of the Junked Vehicle or vehicle part. The notice must identify the Junked Vehicle or vehicle part. The Texas Department of Motor Vehicles shall immediately cancel the certificate of title pursuant to the Certificate of Title Act.

Section 7 Authority to Enforce.

The Fort Bend County Sheriff's Department or an employee of the City of Beasley authorized to administer the procedures of this ordinance may enter private property to examine a Public Nuisance, to obtain information to identify the Public Nuisance, and to remove or direct removal of the Public Nuisance.

Section 8 Repealer.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed. No intentional or unintentional future ordinance passed by the City Council of the City of Beasley shall take precedence over this ordinance without the specific amendment of this ordinance.

Section 9 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 10 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 21st day of August, 2018 .

Attest:



Kenneth Reid, Mayor



G. B. Michulka, City Secretary