

**ORDINANCE NO. 2018-7**

**AN ORDINANCE OF THE CITY OF BEASLEY, TEXAS REGULATING JUNKED VEHICLES; PROVIDING FOR A PENALTY NOT TO EXCEED \$200; REPEALING ORDINANCE NO. 2011-8 (JUNKED VEHICLE ORDINANCE); AND ALSO SUPERSEDING ANY CONTRADICTORY PROVISION OF THE 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.
- (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 on private property; 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.
  - (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.

**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 Public Property:
  - (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 completely surrounded in a fenced area by a fence that is at least six feet (6') in height and constructed of an opaque material (examples include chain link with vinyl slatting, cinderblock, and wooden fencing); or
  - (2) is an Antique Vehicle or Special Interest Vehicle; or
  - (3) that is stored or parked in a lawful manner on private property in connection with a commercial vehicle repair shop outdoor storage area that is:
    - (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.

**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 warning 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 to cause the Junked Vehicle to be removed.
- (b) 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 sent by certified mail 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.
- (c) The notice must state that:
  - (1) the Public Nuisance must be abated and removed not later than the 10<sup>th</sup> day after the date on which the notice was personally delivered or mailed; and
  - (2) the date, time and place for the public (abatement) hearing.
- (d) If the post office address of the last known registered owner of the Junked Vehicle is unknown, notice may be placed on the Junked Vehicle or, if the owner is located, personally delivered.
- (e) If the notice is returned undelivered, action to abate the Public Nuisance shall be continued to a date not earlier than the 11<sup>th</sup> 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 adopted under this ordinance.
- (b) The hearing shall be held not earlier than the 11<sup>th</sup> 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) A resolution or order requiring removal of the Junked Vehicle must include:
  - (1) the year, make, model, and vehicle identification number;
  - (2) the location of the facility where the Motor Vehicle is being held;
  - (3) notice to the owner and lienholder of the right to claim the Motor Vehicle not later than the 20th day after the date of the notice after payment of fees charged in accordance with Chapter 683 of the Texas Transportation Code;
  - (4) a statement that failure of the owner or lienholder to claim the Motor Vehicle within 20 days is a waiver by that person of all right, title, and interest in the Motor Vehicle, and consent to the sale at a public auction or disposal of the Motor Vehicle.
- (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 Conflict.**

This ordinance shall supersede any contradictory provision of the International Property Maintenance Code regarding junked vehicles or inoperable vehicles.

**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. This ordinance expressly repeals Ordinance Nos. 2011-8 and 2018-4, but does not repeal any other ordinance except to the extent of an irreconcilable conflict.

**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 14<sup>th</sup> day of November, 2018.

Attest:

  
G. B. Michulka, City Secretary

  
Kenneth Reid, Mayor