

ORDINANCE NO. 12

AN ORDINANCE OF THE CITY OF POST OAK BEND, TEXAS, REGULATING JUNKED VEHICLES; DECLARING JUNKED VEHICLES A PUBLIC NUISANCE; ABATEMENT OF NUISANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF POST OAK BEND, TEXAS:

1. **Definition; Presumption -**

- (A) "Junked vehicle", as used in this Ordinance, means any vehicle as defined in Section 683.071, Transportation Code, Title 7, Vernon's Texas Codes Annotated, 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;
 - (2) Is wrecked, dismantled, or partially dismantled, or discarded; or
 - (3) Is inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if the vehicle is on public property; or
 - (b) 30 consecutive days, if the vehicle is on private property.
- (B) For purposes of this Ordinance, any vehicle, the owner of which shall refuse to start and operate same upon request by authorized city agent or agents, shall be presumed to be inoperable.

2. **Administration** - The City Marshal or his designee shall administer this Ordinance. Removal of junked vehicles or parts thereof from property may be by any other duly authorized person.

3. **Authority to Enforce** - The City Marshal or his designee may enter upon private property for the purposes specified in this Ordinance to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or cause the removal of a junked vehicle or part thereof declared to be a nuisance pursuant to this Ordinance.

The Municipal Court shall have the authority to issue all orders necessary to enforce this Ordinance.

4. Junked Vehicles Declared a Public Nuisance -

- A. A junked vehicle including a part of a junked vehicle that is visible from a public place or public right-of-way is detrimental to the safety and welfare of the public, tends to reduce the value of private property; invites vandalism; creates fire hazards; is an attractive nuisance creating a hazard to the health and safety of minors; produces urban blight adverse to the maintenance and continuing development of municipalities; and is a public nuisance.
- B. A person commits an offense if that person maintains a public nuisance as determined under this Ordinance and upon conviction is subject to a fine not to exceed two hundred dollars (\$200.00). Upon conviction, the Municipal Court shall order removal and abatement of the nuisance.

5. Notice to Remove and Abate - In the event that any owner of a junked vehicle or any owner of any lot, tract, parcel of land or portion thereof, situated within the City shall fail to comply with this Ordinance, the City Marshal or his designee shall notify such owner by giving not less than a ten-day notice, stating the nature of the public nuisance, and that it must be removed and abated within ten (10) days and further, that a request for hearing, if desired, must be made before expiration of said ten-day period, such notice to be mailed, by certified or registered mail with a five-day return requested, or delivered in person to the owner or occupant of the premises whereupon such public nuisance exists. If the notice is returned undelivered by the U.S. Post Office, official action to abate said nuisance shall be continued to a date not less than ten (10) days from the date of such return.

6. Public Hearing Afforded on Request - A public hearing shall be afforded prior to the removal of the junked vehicle or part thereof as a public nuisance to be held before the City Mayor or if appointed, City Judge, when such hearing is requested by the owner or occupant of the premises on which said junked vehicle is located, within ten (10) days after service of notice to abate the nuisance. Any order requiring the removal of a junked vehicle or part thereof shall include a description of the junked vehicle, and the correct identification number and license number of the junked vehicle, if available at the site. After a junked vehicle has been removed, it shall not be reconstructed or made operable.

7. Junked Vehicle Disposal - Removal, storage and disposal of a junked vehicle shall be accomplished in accordance with Section 683.078, Transportation Code, Title 7, Vernon's Texas Codes Annotated.

8. Notice to Texas Department of Transportation - Notice shall be given to the Texas Department of Transportation within five (5) days after the junked vehicle, vehicle part, or portions thereof are removed.

9. Exemptions - This Ordinance shall not apply to:
- (A) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
 - (B) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junk yard; or
 - (C) An "antique auto" which is a passenger car or truck that is at least thirty-five (35) years old, and is maintained in an orderly manner as not to allow an undergrowth of weeds and brush, infestation by animals, or to create an attractive nuisance to minors, or to create a health hazard.
10. Severability - If any section or part of any section or paragraph of this Ordinance is declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this Ordinance.

PASSED AND APPROVED this 12TH day of APRIL, 2001

CITY OF POST OAK BEND, TEXAS

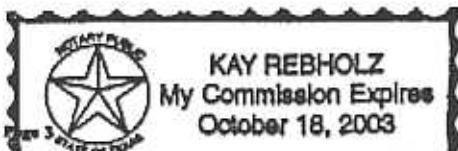
Wayne Rebholz
WAYNE REBHOLZ, Mayor

ATTEST:

James A. Ball
JAMES A. BALL, City Secretary/Clerk

Signed in my presence this 12th day of April, 2001 by James A. Ball and Wayne Rebholz.

Kay Rebholz
Notary Public



FILED FOR RECORD AT 8:55 O'CLOCK P.M. 4-30-01 AND LAURA HUGHES

10-214
C5714
C5714

City of Post
Oakland

INDEXED COMPARED

CONTROL NO. 5003
KATHLEEN M. BEBHOFF
FILED FOR RECORD
KATHLEEN M. BEBHOFF
COUNTY CLERK OF TEXAS

TO
01 APR 20 PM 2:55 (APRIL 20, 2001)
LAURA HUGHES
COUNTY CLERK
BY: Public DEBILITY

THE STATE OF TEXAS }
COUNTY OF KAUFMAN }

I, Laura Hughes, Clerk of the County Court in and for Kaufman County, Texas, do hereby certify that this instrument was FILED FOR RECORD and RECORDED in the volume and page of the named record and at the time and date as stamped hereon by me.



Laura Hughes
COUNTY CLERK OF
KAUFMAN COUNTY, TEXAS

RECORDS
 OFFICIAL PUBLIC RECORDS
VOL. 1003 PAGE 214
VOL. 1703 PAGE 214, 215 + 216

1300

James A. Ball
1987 CE 279
Kaufman, TX 75140