

ORDINANCE NUMBER 508

AN ORDINANCE PROVIDING THAT SUCH ORDINANCE MAY BE CITED AS THE "JUNKED MOTOR VEHICLE ORDINANCE, MAKING IT UNLAWFUL TO LEAVE OR PERMIT TO REMAIN UPON ANY PRIVATE OR PUBLIC PROPERTY WITHIN THE CITY OF CIBOLO, TEXAS, ANY JUNKED VEHICLE OR PORTIONS THEREOF, FOR ANY PERIOD OF TIME EXCEEDING SEVENTY-TWO (72) HOURS ON PUBLIC PROPERTY OR FOR A PERIOD OF THIRTY (30) DAYS ON PRIVATE PROPERTY IN THE CITY OF CIBOLO, TEXAS. (EXCEPT AS PROVIDED HEREIN). TO BE UNLAWFUL AND ESTABLISHING PROCEDURES FOR ABATEMENT AND REMOVAL OF JUNKED VEHICLES OR PARTS THEREOF, AS PUBLIC NUISANCES, FROM PRIVATE PROPERTY OR PUBLIC PROPERTY; PROVIDING A PENALTY OF NOT MORE THAN TWO HUNDRED (200) DOLLARS FOR VIOLATION OF THIS ORDINANCE; AND REPEALING ORDINANCE NUMBER 310 DATED 21 APRIL, 1983. REFERENCE SECTION 683.071 OF THE TEXAS TRANSPORTATION CODE AS AMENDED BY HB 1103 OF THE 1999 TEXAS LEGISLATURE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS:

SECTION 1

SHORT TITLE:

- (a) This ordinance may be cited as "Junked Vehicle Ordinance".

SECTION 2

The following terms whenever used or referred to in this ordinance shall have the following respective meanings unless a different meaning clearly appears from the context.

- (A) **City:** Shall mean the City of Cibolo, Texas.
- (B) **Code Enforcement:** Shall mean the Code Enforcement Officer of the City of Cibolo.
- (C) **Demolisher:** Means any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles
- (D) **Junked Vehicles** means a vehicle that is self-propelled and inoperable 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.**

(e) Motor Vehicle: Means any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

(f) Antique Auto: Means a passenger car or truck that is at least thirty-five (35) years old.

(g) Motor Vehicle Collector means a person who:

- (1) owns one or more antique or special interest vehicles; and**
- (2) acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.**

(h) Special Interest Vehicle means a motor vehicle of any age that has not been changed from original manufacture's specifications and, because of its historic interest, is being preserved by a hobbyist.

SECTION 3

JUNKED VEHICLES DECLARED A PUBLIC NUSANCE: Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public are declared to be a public nuisance, and as such are subject to being abated or removed in accordance with the procedures as outlined in this ordinance.

SECTION 4

ENFORCING AUTHORITY: The provisions of this ordinance shall be administered by the Code Enforcement Officer of the City of Cibolo, Texas.

SECTION 5

MAKING IT UNLAWFUL TO CREATE OR MAINTAIN SUCH NUISANCE: It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided), within the City of Cibolo, Texas, any junked vehicle or part or portion thereof, for any period

of time in excess of seventy-two (72) hours on public property or thirty (30) days on private property.

SECTION 6

NOTICE OF NUISANCE; REQUEST FOR HEARING: The Code Enforcement Officer, upon determining that a person is maintaining a public nuisance by permitting junked vehicles or parts thereof to be maintained on private property, public premises or public rights-of-way, shall cause a notice to be mailed to the last known registered owner of the nuisance, each lienholder of record of the nuisance and the owner or occupant of the private property whereupon such public nuisance exists, or to the owner or occupant of the public premises or the owner or occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists, as the case may be, which notice shall state the nature of the public nuisance and provide that the public nuisance must be removed or abated not later than the tenth (10th) day after the date on which the notice was mailed. Such notice shall be mailed by certified mail with a five (5) day return receipt requested. Said notice shall further state that in the event the person owning such public nuisance desires a hearing to determine whether a nuisance in fact exists, that such owner must request such hearing before the expiration of the ten (10) day period provided for the abatement of such nuisance.

SECTION 7

HEARING; NOTICE; ORDER: In the event a request for hearing is made, such request shall be placed on a regular docket of the municipal court of the City of Cibolo, Texas, and such hearing shall be conducted before and determined by the judge of the municipal court. At least ten (10) days notice of such scheduled hearing shall be given to the person requesting such hearing by certified mail with a five day return receipt requested. After such hearing is conducted, if an order is entered by the judge of the municipal court requiring the removal of such vehicle, the order shall include a description of the vehicle and the correct identification number and license number of the vehicle if such information is available at the site. If the municipal judge finds that such nuisance as herein described exists, he shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within ten (10) days after said order is given to such owner or occupant of the premises on which said vehicle is located. It shall be unlawful and a violation of this ordinance for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by said order.

SECTION 8

WHENEVER A HEARING IS NOT REQUESTED: In the event the owner or occupant of the premises does not request a hearing as hereinabove provided, it

shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten (10) days after the date of receipt of such notice.

SECTION 9

VEHICLE NOT TO BE MADE OPERABLE: After a vehicle has been removed in accordance with or under the terms and provisions of this ordinance, it shall not be reconstructed or made operable.

SECTION 10

NOTICE TO BE GIVEN TO TEXAS DEPARTMENT OF TRANSPORTATION UPON REMOVAL OF VEHICLE: In the event a vehicle or part thereof is removed from private property or from public premises or from public right-of-way, notice shall be given to the Texas Department of Transportation within five (5) days after the removal thereof, identifying the vehicle or part thereof so removed.

SECTION 11

ABATEMENT OF NUISANCE BY CODE ENFORCEMENT:

- (a) If the notice to abate a nuisance as provided in this ordinance is given to a person and the nuisance is not abated and no request for a hearing is made by such person, then upon the expiration of the ten (10) day period provided in the notice, the Code Enforcement Officer with the assistance of the Cibolo Police Department, if required, shall be authorized to enter upon such property, public premises or public right-of-way and abate the nuisance so maintained in violation of the provisions of this ordinance. If a notice to abate a nuisance is given as above provided and the person receiving such notice requests a hearing, and after such hearing it is determined by the judge of the municipal court that such nuisance does exist, then such nuisance shall be abated within ten (10) days from and after the date of the entry of the order by said judge to abate such nuisance. If the nuisance is not abated in accordance with said order within ten (10) days, then the Code Enforcement Officer, with Cibolo Police assistance, as required; shall be authorized to enter onto such private property, public right-of way and abate the nuisance so maintained.
- (b) In the event the notice to abate a nuisance as above provided is returned undelivered by the United States Post Office, the Code Enforcement Officer shall be authorized to enter upon such private property , public premises or public right-of-way from and after ten (10) days after the date of such return.

SECTION 12

THE PROCEDURE OUTLINED IN 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 within the business of a licensed vehicle dealer or junkyard.

(c) Unlicensed, operable or inoperable, antique and special interest vehicles stored by a vehicle collector on his property, provided that the vehicles and their storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from public view by means of a fence, natural foliage or other appropriate means.

SECTION 13

DISPOSAL BY THE CITY:

(a) Junked vehicles or parts thereof may be disposed of by the City by removal to a scrap yard or by sale to a demolisher for the highest bid or offer received thereof or to remove same to any suitable site operated by the City Of Cibolo to be processed as scrap or salvage. Out of the proceeds received Code Enforcement shall pay for the cost of removal and storage and the balance, if any, shall be paid to the person entitled thereto (either owner or leinholder).

SECTION 14

REPEAL OF ORDINANCES:

Ordinance Number 310 dated April 21, 1983, is hereby repealed.

SECTION 15

Any violation by any person, firm or corporation of this ordinance is declared to be unlawful and a misdemeanor, and any violation thereof shall be punishable by a fine of not to exceed two hundred (200) dollars and each and every day this Ordinance is violated shall constitute a separate offense.

SECTION 16

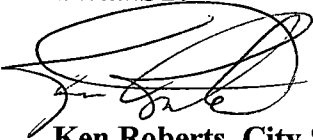
This ordinance shall take effect upon its passage, approval and publication as prescribed by law.

PASSED AND APPROVED THIS 28th DAY OF SEPTEMBER, 1999.



**SAM BAUDER,
MAYOR**

ATTEST:



Ken Roberts, City Secretary