

ORDINANCE NO. 120.

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 KRESS, TEXAS, ANY JUNKED VEHICLE, OR PORTIONS THEREOF, FOR ANY PERIOD OF TIME EXCEEDING TEN (10) DAYS; DECLARING THE LEAVING OR PERMITTING TO REMAIN, OF ANY JUNKED MOTOR VEHICLE, OR PART OR PORTION THEREOF, UPON PUBLIC OR PRIVATE PROPERTY IN THE CITY OF KRESS, 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 THAT NOTICE BE GIVEN; PROVIDING A PENALTY; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, the City Council of the City of Kress, Texas, finds a large number of junked vehicles, as that term is defined herein, are from time to time left in places where they are visible from a public place or public right-of-way, that said junked vehicles create fire hazards and that the same constitutes an attractive nuisance, creating a hazard to the health and safety of minors, and the same are detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City of Kress, Texas; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KRESS, 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 meaning unless a different meaning clearly appears from the context:

- (a) City shall mean the City of Kress, Texas.
- (b) Police Department shall mean the police department of the City.
- (c) Demolisher means any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantel motor vehicles.

(d) City Secretary shall refer to the City Secretary of the City of Kress.

(e) Junked Vehicles means any motor vehicle as defined in Section 1 of Article 827 (a), Vernon's Texas Penal Code as amended, which vehicle is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked; dismantled; partially dismantled; or discarded.

(f) Motor Vehicle means any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

SECTION 3: Junked Vehicles Declared a Public Nuisance.

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, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the State, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the State of Texas, and such vehicles are therefore, declared to be a public nuisance.

SECTION 4: Making it Unlawful to Create or to 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 Kress, Texas, any junked vehicle or parts or portion thereof, for any period of time in excess of ten (10) days.

SECTION 5: Notice by City Secretary of the City of Kress, Texas.

(a) Whenever it is brought to the attention of the City Secretary of the City of Kress, Texas, that a nuisance, as defined herein, exists in the City of Kress, the City Secretary shall give or cause to be given to the person maintaining or suspected of maintaining said nuisance, in writing, a ten (10) 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 a hearing must be made before the expiration of said ten (10) day period, said notice to be mailed, by certified or registered mail with a five (5) day return requested, to the owner or occupant of the premises where upon such public nuisance exists. If the notice is returned undelivered by the United States 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.

(b) A public hearing shall be had prior to the removal of the vehicle or part thereof as a public nuisance before the mayor of the City of Kress, when such hearing is requested by the owner or occupant of the premises on which said vehicle is located, within ten (10) days after service of notice to abate the nuisance. Any resolution or order requiring the removal of the vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

SECTION 6: Order by Mayor.

After the hearing is held by the Mayor of the City of Kress, as herein provided, if said Mayor finds that such a nuisance as herein defined 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 7: Duty of Owner or Occupant of the Premises.

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 the receipt of such notice.

SECTION 8: Vehicles 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 9: Notice to Texas Highway Department.

Notice shall be given to the Texas Highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.

SECTION 10: Where Article Does Not Apply.

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; or

(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 junk yard.

SECTION 11: Administration of this Ordinance.

The administration of this ordinance shall be by regularly salaried, full time employees of the City of Kress, except that the removal of vehicles or part thereof from property may be by any other duly authorized person.

SECTION 12: Removal of Vehicles.

Within ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which said vehicle is located, the City Secretary of the City of Kress or members of the Police Department of the City of Kress, acting under the direction of the City Secretary, may if said nuisance has not been abated, remove or cause to be removed the vehicle which was the subject of such notice to a suitable city storage area designated by the City Secretary of the City of Kress, Texas. Such vehicle shall be stored in such storage area for a period of not less than ten (10) days during which period any party owning or claiming any right, title or interest therein shall be entitled to claim possession of same by the payment to the City of Kress, Texas, the actual cost of the City of abating such nuisance. The City Secretary may in such cases, if he deems it necessary, require such person to post bond of not more than \$50.00 nor less than \$25.00, conditioned that such person will not use said vehicle to create another nuisance in the City of Kress.

SECTION 13: Sale or Disposal of Vehicles.

When any junked vehicle has remained in the storage area provided in Section 12, hereof, for not less than ten (10) days it shall be the duty of the City Secretary of the City of Kress, Texas, to dispose of same by removal to a scrap yard or by sale to a demolisher for the highest bid or offer received therefor or to remove same to any suitable site operated by the City for processing as scrap or salvage.

SECTION 14: Out of the proceeds of same the City Secretary 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 lienholder).

SECTION 15: City Secretary May Delegate.

Wherever the City Secretary is charged with the enforcement of this ordinance. He may delegate said authority to any regular salaried employee of the City of Kress.

SECTION 16: Purview of this Ordinance.

It is not intended by this ordinance to make provisions pertaining to abandoned motor vehicles as that term is defined by the "Abandoned Motor Vehicle Act".

SECTION 17: This ordinance repeals all ordinances or parts of ordinances in conflict herewith.

SECTION 18: Any person who shall violate the terms and provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not less than \$1.00 and not more than \$200.00, and each and every day this ordinance is violated shall constitute a separate offense.

SECTION 19: If any section or part of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining sections or portions of this ordinance.

PASSED AND APPROVED, This 7th day of August, 1972.

W D Agnew

ATTEST:

Jean Galloway