

ORDINANCE NO. 540

AN ORDINANCE AMENDING ARTICLE III, "JUNKED AND ABANDONED VEHICLES", OF CHAPTER X OF THE CODE OF ORDINANCES OF THE CITY OF RIVER OAKS, TEXAS; REVISING REFERENCES TO STATE LAW, PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of River Oaks, Texas is a home rule city acting Under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the legislature has codified the statutes that authorize municipalities to adopt procedures for the abatement and removal of junked vehicles as a public nuisance from private property, public property, or public rights-of-way and has placed them in the Transportation Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVER OAKS, TEXAS:

SECTION 1. That the definition of the term "Junked Vehicle" contained in Section 10-33 of the River Oaks Code of Ordinances is amended to read as follows:

"Junked Vehicle means a motor vehicle that:

- (1) does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate; and
- (2) is wrecked, dismantled, partially dismantled, or discarded; or
- (3) is inoperable and has remained inoperable for more than 72 hours if the vehicle is on public property; or 30 consecutive days if the vehicle is on private property."

SECTION 2: That the definition of the term "Abandoned Vehicle" contained in Section 10-33 of the River Oaks Code of Ordinances is amended to read as follows:

"Abandoned Vehicle means:

- (1) a motor vehicle that is inoperable, and is more than five years old and left unattended on public property for more than 48 hours; or

- (2) a motor vehicle that has remained illegally on public property for a period of more than 48 hours; or
- (3) a motor vehicle has remained on private property without the consent of the owner or person in control of the property for more than 48 hours; or
- (4) a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within the state for more than 48 hours or for more than 24 hours on a turnpike project constructed and maintained by the Texas Turnpike Authority.”

SECTION 3. Subsection (3) of Section 10-38, “Civil Enforcement, Notice to Remove” is amended to read as follows:

- “(3) That a public hearing will be held by the hearing officer on a date specified in the notice, which date will be at least ten (1) days following the date of the notice, and”

SECTION 4. That Section 10-39 “Civil Enforcement, Public Hearing for Removal” of the City of River Oaks Code of Ordinances is amended as follows:

- “(a) Hearing Officer. The city council shall appoint a hearing officer to conduct hearings under the provisions of this article.
- (b) Testimony. At the public hearing, the hearing officer shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel, and interested persons relative to the alleged public nuisance. The hearing may be continued from time to time.
- (c) Presumption. At the hearing the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (d) Determination. Following the public hearing, the hearing officer shall consider all evidence and determine whether the vehicle, or any part thereof, constitutes a public nuisance as alleged. If the hearing officer finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that the notice requirements provided in Section 10-38 have been met, the hearing officer shall make a written order setting forth his findings and ordering that the nuisance be removed and that the vehicle be disposed of in accordance with the provisions of Chapter 683, Subchapter E of the Texas Transportation Code.”

SECTION 5. Section 10-40 “Civil Enforcement; Abatement of Nuisance” of the City of River Oaks Code of Ordinances is amended as follows:

"(a) Removal: In the event the hearing officer orders the abatement of the nuisance, the City or any authorized person may abate such public nuisance by removal and disposal of the junked vehicle."

SECTION 6. Section 10-42 "Administration and Authority to Enforce" of the City of River Oaks Code of Ordinances is amended by adding Subsection (c) to read as follows:

"(c) Relocation of Junked Vehicle. After the city has sent notices in accordance with Section 10-38, the relocation of a junked vehicle, that is a public nuisance, to another location in the city, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location."

SECTION 7. This ordinance shall be cumulative of all provisions of ordinances of the City of River Oaks, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 8. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9. This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS _____ DAY OF _____, 1999.

/s/ Jack Adkison
MAYOR

/s/ Joy Williams
CITY SECRETARY