

Ordinance No. 43

**Village of Pleak Junkyard Ordinance**

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**AN ORDINANCE OF THE VILLAGE OF PLEAK REGULATING JUNKYARDS; PROVIDING DEFINITIONS; REGULATING THE PLACEMENT AND MAINTENANCE OF JUNKYARDS; REQUIRING A LICENSE; PROVIDING FOR PENALTIES.**

**WHEREAS**, it is the village council's intention with this ordinance to promote the health, safety and welfare of persons and property, by regulating the business of junkyards within the incorporated limits of the Village of Pleak;

**NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL FOR THE VILLAGE OF PLEAK**, that the following ordinance is hereby adopted.

**Section 1. Definitions.**

**Church** shall mean a structure where a society of people or persons who profess a religious belief regularly assemble for religious worship or religious instruction and which is exempt from valorem taxes.

**Day-care center** has the meaning set forth in V.T.C.A., Human Resources Code, Section 42.002.

**School** shall mean a public or private elementary, junior high and high school.

**Owner** shall mean an individual, partnership, corporation, trust, association or any other legal entity who irregularly or continually, either at wholesale or retail, buys, sells, stores, or maintains junk whether itinerant or at a fixed place of business.

**Junk** shall mean any worn out, cast off, or discarded article or material; iron, brass, copper, aluminum, tin, lead or other base metals; rope, bags, rags, paper, rubber, glass, empty bottles; accumulation of vehicle parts, tires, wrecked, scrapped, dismantled or inoperable vehicles, trucks, tractors, watercrafts; any operable or inoperable parts from a vehicle, truck, tractor, or watercraft; equipment parts or machinery of any kind; appliance parts, discarded, inoperable appliances, or any other articles which have been discarded or are no longer used for the purpose for which they were manufactured.

**Junkyard** shall mean any location within the city for the wrecking, scrapping, dismantling, storing, accumulation, buying, selling, dealing or trading of junk. The term junkyard and salvage yard shall have the same meaning.

**Section 2. Location of junkyard and lot size.**

1. No junkyard shall be maintained, used or operated on any lot, plot or tract of land any part of which is located within five hundred (500) feet of a church, school, hospital, day-care center or residence. The measurement of the distance between the junkyard

and the church, school, hospital, day-care center or residence shall be in direct line from the property line of the junkyard to the property line of the church, school, hospital, day-care center or residence.

2. A minimum of two (2) acres shall be required to maintain, use or operate a junkyard on.
3. A junkyard dealer that holds a license, shall not be placed in violation of this ordinance, or become ineligible for a renewal of a license, due to the subsequent construction or placement of a church, school, hospital, day-care center or residence within five hundred (500) feet of the location of such junkyard.

### **Section 3. Enclosure.**

Each junkyard shall be completely surrounded and enclosed by a solid fence or wall, which shall measure ten (10) feet in height. Every fence or wall shall be constructed and maintained as follows:

1. All fences shall be constructed of wood, masonry, or twenty-six (26) gauge steel panels. All sides of the fence shall be constructed of the same material and shall be the same color. The design and construction of the twenty-six gauge steel paneled fence must achieve a one hundred twenty (120) mph wind load. Said fence must be designed by a professional engineer to ensure that it meets or exceeds wind load capacity.
2. All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
3. The junkyard shall have at least one gate. All gates for access to the junkyard shall be a minimum of twenty (20) feet in width. Gates shall be constructed of the same materials and the same color as the fence. Gates shall swing inward or slide sideways and shall be kept closed and locked when the junkyard is not open for business.
4. All fences shall be installed with a knock box on the lock.

### **Section 4. Placement of junk and maintenance of junkyard.**

1. All junk must be stored within the enclosed fence or wall area of the junkyard and shall not extend beyond the fence or wall, including stacking or piling junk to a height in excess of the fence or wall. However, the stacking or piling of junk shall not exceed ten (10) feet in height.
2. No junk shall be placed outside of the fences or walls surrounding the junkyard.
3. All junk that has contained or may be contaminated with oil or grease must be stored within the enclosed fence on concrete flooring. The concrete flooring must be designed to capture and drain rainwater and contaminants into a common collection

system. The collection system must include an oil separator sized to prevent the release of contaminants into the environment.

4. All batteries must be stored indoors in the manner prescribed by state or federal laws or regulations.
5. Junk or components of a piece of junk, must be placed on racks adequately designed to hold the stored items in a safe and secure manner.
6. All junk car bodies shall be stored on racks or supports so that the bodies maintain a clearance of at least eight (8) inches from the ground to provide for easy inspection, control of insects and rodents, and water drainage.
7. All junk located on the junkyard must be arranged so as to allow reasonable access to and inspection of the premises by fire, health and police officials of the village. Turning radii to accommodate fire trucks and other emergency equipment shall be twenty-five (25) feet and a minimum aisle width of twenty (20) feet. Turning radii must be of concrete or asphalt designed by a professional engineer.
8. Every junkyard shall be kept and maintained in a clean and sanitary condition so as not to attract rodents or insects. Grass and other vegetation shall not be allowed to grow to a height of more than six (6) inches above the ground.
9. Fire extinguishers shall be present at the junkyard and all operations thereon shall conform to the requirements of the fire code adopted by the village.
10. No toxin pollutants of any kind shall be discharged into the city's sanitation sewer system. Transmission fluid, gasoline, motor oil or other related pollutants resulting from the storage of junk may be stored at the site in leak proof, EPA-approved containers, but may not exceed one hundred (100) gallons in quantity at a given time. The disposal of such pollutants shall only be made in accordance with the laws of the State of Texas and health department requirements.

#### **Section 5. Application.**

1. It shall be unlawful for any person to engage in business as a junkyard within the village without first obtaining a license.
2. Every applicant for a junkyard license shall file with the village a written application upon a form prepared and provided by the village. The application shall contain the following information:
  - a. The full name and mailing address of each owner and operator of the junkyard.
  - b. The full name and address of the registered agent for service.

- c. Whether any owner or operator is an individual, partnership, corporation, or other legal entity.
- d. If any owner or operator is a corporation, provide the names of all officers of the corporation.
- e. If any owner is a partnership, provide the names and addresses of all the partners.
- f. If any owner is an association, provide the names and addresses of the all officers of the association.
- g. The length of time each applicant has resided in the village, the business or occupation pursued by him during the five (5) years immediately preceding the date of such application, giving the place where such business or occupation was followed, whether he is married or single, whether he has ever been convicted of a felony or a misdemeanor, including a violation of any city ordinances, and if so the offense and the court in which the conviction was in. If the applicant is a corporation, the application shall contain the same information with respect to each of the following officials: President, vice-president, secretary, treasurer and general manager.
- h. Whether the applicant or the enumerated officers has ever been employed by a junkyard or has ever been engaged in the junkyard business, and if so, the name of the city where the junkyard was located, and the length of time the applicant was engaged in the junkyard business.
- i. A detail statement of the nature of the business to be conducted, the kind of junk to be collected, bought, sold, stored or otherwise dealt in.
- j. The address where such business is to be located.
- k. A copy of the deed to the land where the business is to be located.
- l. Attachment of a survey and legal description of the property, and a certified copy of any deed restrictions applicable to the property.
- m. A diagram indicating the location of all buildings being placed on the land where the business is to be located and indicating the location of the fence and the type of fencing to be used, and the type of gate to be constructed.
- n. A site plan to scale, done by a professional engineer.
- o. A civil drainage plan, done by a professional engineer.
- p. The time periods during which the junkyard will be open for business.

## **Section 6. Village Council to approve license.**

After the application is complete, and the license fee is paid, applicants request for a junkyard license shall be placed on the next regularly scheduled village council meeting. The village council shall vote on applicants request for a license. The village council has the authority to approve the application, to deny the application or to request additional information. If the village council requests addition information, the application for a junkyard license shall be placed on the next regularly scheduled council meeting for consideration.

## **Section 7. Denial.**

If any application for a junkyard license is denied by the village council, the applicant may make another application at any time thereafter upon showing that the reason for such denial of the application no longer exists.

## **Section 8. Duration.**

No license shall be issued under this ordinance for a period of more than one year, and all licenses shall terminate one year from the date of issuance, unless sooner revoked.

## **Section 9. Revocation.**

The village council shall have the power to revoke the license provided for herein at any time, but only after notice has been given to the owner of the business of a hearing to be held before the city council, not less than ten (10) days after the service of such notice.

A license can be revoked after it as been granted under this ordinance for any of the following reasons:

1. Fraud or false statements, or misrepresentation in obtaining the license;
2. Upon satisfactory proof that the owner, on more than one occasion, has violated any of the provisions of this ordinance or of any rule or regulation adopted and promulgated by the village council;
3. Upon satisfactory proof that the dealer has violated any of the federal laws or laws of Texas affecting its junkyard operation; or
4. Upon good cause.

## **Section 10. Renewal.**

Any license issued under the provisions of this ordinance may be renewed from year to year in like manner as is provided for the original license, including the submission of a new application and the payment of a fee.

### **Section 11. Fee.**

Each dealer shall pay to the village an annual license fee. The amount of the fee shall be set yearly by the village council. The fee shall be paid at the time the application is submitted for a license. The fee paid is not refundable if the application for a junkyard license is denied.

### **Section 12. No vested rights.**

No license issued under this ordinance shall be construed as the grant of a vested right, but shall be subject to such other regulations or amendments as the village council may from time to time promulgate in the regulation of junkyards.

### **Section 13. License nontransferable.**

The license issued under this ordinance shall not be transferable.

### **Section 14. Existing junkyards within prohibited distance.**

A junkyard in operation on the effective date of this ordinance that is located within the prohibited distance set forth in section 2 shall make application to the village council for a license within thirty (30) days of the effective date of this ordinance. The license shall indicate that the junkyard is located within the prohibited distance established in this ordinance. It shall be unlawful to operate within such prohibited distance without the license.

### **Section 15. Junkyards in business at time of enactment of this ordinance.**

A person owning or operating a junkyard on the date of enactment of this ordinance shall have a period of six (6) months from the date of enactment of this ordinance in which to comply with all of the requirements of this ordinance.

### **Section 16. Inspection.**

All persons having the care, custody or control of any junkyard shall, during regular days and hours of business, allow the village inspector, the village's fire officials, the village's police officers, or the village's designated official, to inspect the premises for the purpose of ascertaining compliance with federal and state laws and the regulations and requirements of this ordinance.

### **Section 17. Record of transactions.**

Every owner shall keep at his place of business a register in which he shall make a written entry, in ink, describing all property taken, purchased or received by him, together with the time, name and place of residence, giving street number if within the village, of the person from whom the

property was received. In addition, every owner must provide a legitimate bill of sale for all items purchased.

#### **Section 18. Access to records.**

The register required to be kept by this chapter shall at all times during business hours be kept open and available for inspection by the chief of police, or the fire department or any officer designated by the village to inspect said records. The owner shall upon request show and exhibit to such officer the register for inspection of any article purchased by the owner.

#### **Section 19. Record identification of motor vehicles.**

In the case of parts of motor vehicles, and in addition to the information required to be entered in the register of purchasers, such record shall contain all serial numbers, engine numbers or other identifying numbers, the make, style, model, color and license number of the automobile from which the same were taken.

#### **Section 20. Removal of identification numbers.**

No owner shall buy, receive, sell or otherwise dispose of any motor vehicle, or part thereof, from which the manufacturer's serial number or other identification mark has been removed, defaced, covered, altered or destroyed. Any owner to whom is offered for sale or delivery of any motor vehicle, or part thereof, from which has been removed, defaced, covered, altered or destroyed the manufacturer's serial number or other identification mark shall immediately notify the chief of police or appropriate law enforcement agency.

#### **Section 21. Compliance with regulations and ordinances.**

All junkyards must at all times be in full compliance with all federal and state laws and regulations and village ordinances regarding health and safety.

#### **Section 22. No enlargement of business.**

No holder of a license shall be entitled to expand or otherwise enlarge the junkyard business by adding additional improvements or land other than to comply with any state or local ordinance or statute.

#### **Section 23. Continuance operation required.**

If at any time a junkyard ceases operation and the location is not used for a junkyard for a period of sixty (60) days or more, the license shall expire and shall not be subject to renewal. The location may not be used again as a junkyard, unless an application for a new license is made, a new application fee is paid and a new license is granted by the village council.

#### **Section 24. Penalty for violations of ordinance.**

Any person convicted of a violation of any provision of this ordinance shall be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed two thousand dollars (\$2,000.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

In addition to the penalties herein above provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance or any law shall be deemed a public nuisance and may be abated by the city as provided by law.

In addition to the remedies as herein provided, the Village of Pleak may at any time seek such injunctive relief as shall be necessary to insure compliance with the terms and provisions of this ordinance.

#### **Section 25. Repeal.**

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

#### **Section 26. 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 27. Adoption of ordinance.**

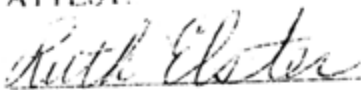
This ordinance shall become effective upon its approval and passage.

PASSED by an affirmative vote of all members of the Village Council this 19 day of July, 2006.

APPROVED:

  
Mayor, Margie Krenak

ATTEST:



City Secretary, Ruth Elster

Ordinance No. 53-06

**AN ORDINANCE OF THE VILLAGE OF PLEAK ESTABLISHING A LICENSE FEE FOR JUNKYARDS CONDUCTING BUSINESS IN THE CORPORATE LIMITS OF THE VILLAGE.**

**WHEREAS**, it is the village council's intention with this ordinance to set a fee for the issuance of a junkyard license.

**NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL FOR THE VILLAGE OF PLEAK**, that the following ordinance is hereby adopted:

At the time of submitting an application for a junkyard license and each renewal thereof the person requesting the license shall pay to the Village of Pleak a license fee in the amount of \$750.00. The applicant shall also pay for any and all costs and fees for the services of the Village Engineer for reviewing site plans, drainage plans and any other documents that require the Engineer's review and inspections.

The license shall be valid for one complete year from the date of issuance.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

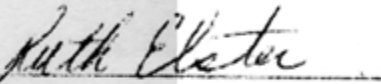
This ordinance shall become effective upon its approval and passage.

**PASSED** by an affirmative vote of all members of the Village Council this 19 day of July, 2006.

APPROVED:

  
Mayor, Margie Krenek

ATTEST:

  
City Secretary, Ruth Elster

**APPLICATION FOR JUNKYARD LICENSE TO OPERATE A  
JUNKYARD WITHIN THE VILLAGE OF PLEAK**

Please provide the following information on separate paper. Each of the following items must be provided for. **DO NOT SKIP ANY ITEM.**

**Payment of all fees must be paid prior to the time that the application and documents are reviewed by the Village Council.**

- a. The full name and mailing address of each owner and operator of the junkyard.
- b. The full name and address of the registered agent for service.
- c. Whether any owner or operator is an individual, partnership, corporation, or other legal entity.
- d. If any owner or operator is a corporation, provide the names of all officers of the corporation.
- e. If any owner is a partnership, provide the names and addresses of all the partners.
- f. If any owner is an association, provide the names and addresses of the all officers of the association.
- g. The length of time each applicant has resided in the village, the business or occupation pursued by him during the five (5) years immediately preceding the date of such application, giving the place where such business or occupation was followed, whether he is married or single, whether he has ever been convicted of a felony or a misdemeanor, including a violation of any city ordinances, and if so the offense and the court in which the conviction was in. If the applicant is a corporation, the application shall contain the same information with respect to each of the following officials: President, vice-president, secretary, treasurer and general manager.
- h. Whether the applicant or the enumerated officers has ever been employed by a junkyard or has ever been engaged in the junkyard business, and if so, the name of the city where the junkyard was located, and the length of time the applicant was engaged in the junkyard business.
- i. A detail statement of the nature of the business to be conducted, the kind of junk to be collected, bought, sold, stored or otherwise dealt in.

- j. The address where such business is to be located.
- k. A copy of the deed to the land where the business is to be located.
- l. Attachment of a survey and legal description of the property, and a certified copy of any deed restrictions applicable to the property.
- m. A diagram indicating the location of all buildings being placed on the land where the business is to be located and indicating the location of the fence and the type of fencing to be used, and the type of gate to be constructed.
- n. A site plan to scale, done by a professional engineer.
- o. A civil drainage plan, done by a professional engineer.
- p. The time periods during which the junkyard will be open for business.

I \_\_\_\_\_, applicant for a junkyard license, swear the information contained in this application is true and correct.

Signed, this \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_\_

\_\_\_\_\_  
Applicant