

Old Cars in Law



A MUSTANG GROWS IN BAYTOWN

LAWRENCE SAVELL

It is an unfortunate fact of life that not every old car ends up in the hands of a dedicated collector, willing and able to devote the time, effort, and expense necessary to maintain it at or restore it to its former grandeur. Too many old cars end up as cast-off, decaying hulks, relegated to salvage yards, vacant lots, and other less-than-desirable final resting places.

In Baytown, Texas, Martha Foxworth Barnett had a 1975 Mustang II and an idea. She made it into a planter.

Barnett is the owner of the Baytown Motors Body Shop. She and some of her employees removed the car's roof and engine, painted it purple ("raspberry"), and filled the interior and several drilled holes in the body with Mexican heather, evergreen wisteria, asparagus fern, and Texas sage. She placed the car in front of her Main Street shop, surrounded with liriope ground cover and landscape timbers as a combination planter and business sign. Her hope was that the vehicle would attract attention.

It did.

It also attracted the attention of Baytown officials, who received several complaints from residents who found it offensive. In 1993, Baytown had passed a junked vehicle ordinance, reportedly designed to keep residents from storing rusted old cars in their front yards. The ordinance specifically targeted inoperable vehicles that lack valid license plates or inspection stickers, and led to the removal of over a thousand such vehicles. In June 1994, the city sent Barnett a Notice advising her that the Mustang was a "junked abandoned vehicle visible from a public place" and consti-

tuted a public nuisance. It gave her 10 days to remove the car, or else the city would, and file criminal charges and impose fines. (It noted that "use of a tarpaulin will not be sufficient.")

Barnett decided to fight City Hall. She denied that her "creation" was a junk vehicle, arguing that it was a planter and a work of art that beautified the business. She requested a public hearing before a judge of the Baytown Municipal Court.

Many Baytown residents supported Barnett's efforts, as reflected in several approving letters printed in the local papers. One reader opined: "In this age of recycling and reuse, anyone clever enough to utilize an old car as an attractive addition to her business should be allowed to do so."

Before Barnett got her day in court, however, the City relented, and proposed that Barnett apply for an approved sign permit for the vehicle, which she did. (She claimed that, prior to all the publicity, she had suggested that option but had been rebuffed by local authorities.)

Baytown officials also agreed to revisit the ordinance in light of creative efforts like Barnett's. This July, the City Council approved an amendment "to exempt a motor vehicle from this ordinance if it is used as a sign and a sign permit is issued, and providing that the vehicle must be maintained so as not to constitute a health hazard."

Ordinances similar to the one involved in Ms. Barnett's case are common, and pose a significant threat to collectors who have on their premises old

cars in poor condition that they hope someday to restore. I have received several calls from readers on this very issue, asking what they can do to avoid having such vehicles removed.

If you receive a notice claiming your old car constitutes a "nuisance" or some other violation, you need to act quickly. Advise your lawyer (if you have one; consider getting one if you do not) about the situation and seek his or her advice about what to do. If you choose to handle the matter on your own, read the notice carefully, particularly with regard to what steps it says you must take (and how soon you must take them) to oppose the proposed action against you. It may say that you have the right to a hearing before a court or other body. Take a close look at how the notice describes your alleged violation. If you're not willing to do what is required to remedy ("abate") it, begin marshalling the evidence necessary to show that the ordinance or rule sought to be applied (which you should also obtain and carefully review) should not apply to you and your old car.

Next month's column will examine the type of notice that a local governmental entity complaining about your old car must provide, and the steps it can lawfully take to deal with the situation.

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